

Lower Thames Crossing

**Application by National Highways for an Order granting
Development Consent for the Lower Thames Crossing
(Ref. No. TR010032)**

Relevant Representation – Thurrock Council

4 May 2023

On behalf of **Thurrock Council**

 **thurrock.gov.uk**

Introduction

- 1 Thurrock Council's ('the Council') Section 151 officer issued a Section 114 (S114) notice on 20 December 2022 to confirm that the Council was unable to balance its budget for 2023 and 2024. Written correspondence was sent to the Examining Authority (ExA) dated 24 February and 6 and 9 March 2023 to explain that this would prevent the Council from submitting a compliant RR within the statutory timescale. The Council has now been able to navigate the processes required to recommence work on its Lower Thames Crossing (LTC) engagement and representations and now respectfully submits this document (which is referred to heretofore as the Relevant Representation), with the aim of informing the Examining Authority about its primary concerns relating to the scheme, as soon as it has been able.
- 2 The Council notes that ongoing delay to the scheme, with the proposed Minor Refinements Consultation not yet commenced in accordance with National Highways (NH) previously suggested programme, provides a window of opportunity for its concerns to be taken into account prior to the commencement of the Examination and the formulation of the ExA's written questions. Those concerns were initially formalised in the Council's emails to PINS dated 31 January and 3 February 2023.
- 3 The Council also wishes to point out that, although this RR sets out in outline the Council's case, it does so without having analysed fully all of the DCO documentation. Negotiations will recommence soon with NH regarding a variation to the Planning Performance Agreement (PPA), in particularly about its scope and scrutiny processes which, as it stands, the Council believes will inhibit its ability to accelerate its assessment of the Development Consent Order (DCO) application and the strategic case for the scheme. It is further concerned that the time available before the Examination on current programme (as per PD-012) will restrict its ability to analyse the significant amount of complex data and detailed evidence, to engage with specialists from National Highways or to prepare counter-factual evidence in support of its case.
- 4 Such proper representation will greatly assist in the effective scrutiny of a large number of outstanding issues. As approximately 70% of the route passes through the Thurrock boundaries and the project occupies 10% of its land area and causes the majority of the project's impacts and issues, the Council is concerned that without its full involvement with the DCO process, that process cannot be thorough and fair or technically examine all the issues.
- 5 The Council's concerns about the programme were set out in further detail in its email to Mr Smith, dated 13 April 2023 and does not seek to repeat these here. We note the response from PINS received on 21 April and guidance provided to make further appropriate representations about programme and merits at the Programming and Preliminary Meetings. The points made in the Council's email about the adverse position of Thurrock Council in relation to this scheme and the impact of the Ministerial Statement on the evidence underpinning the DCO application remain. Accordingly, the Council will raise these concerns again when the opportunity arises.
- 6 The Council notes that the decision by PINS not to accept or publish the above email was influenced by the perceived status of these as being 'unsolicited'. Whilst it is correct to say that the emails were sent without invitation from the ExA, it is also the first opportunity that the Council has had to express its views on the procedural decisions made because of the consequences of its S114 notice and it was keen to ensure that the ExA understood the views of the Council on those issues at the earliest opportunity.
- 7 The Council is obviously disappointed about this decision but will continue to seek to engage constructively in the process. It sincerely hopes that the contribution of the following document it not also considered to be unsolicited, as it provides important information that it hopes will inform the Examination and that could not have been provided at an earlier stage. It should be noted that this document, as a Relevant Representation (RR), is a document that had been invited by the ExA. It is acknowledged that the deadline for submission has passed, however, as set out above, submission by the deadline was not possible. Its consideration by the ExA is considered by the

Council to be in the public interest, due to the impacts upon the Council should the scheme proceed.

- 8 Subject to the foregoing, the Council sets out in this RR (as set out in Article 102 of the Planning Act, 2008 (as amended)) and Regulation 4 of the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 and as on the Planning Inspectorate (PINS) website from 3 February 2023), its principal submissions in respect of the application. In particular, it sets out the main areas where the Council has significant concerns that remain unresolved and offers an outline of its case.
- 9 The Council's outline of its principal submissions/case that we intend to make is set out below and for the convenience of the ExA has been summarised into 15 principal areas/issues that will, subject to agreement with NH about the PPA Variation, be explored in more detail within both the Principal Areas of Disagreement (PADs) Summary and the Council's (Local Impact Report) LIR and other Written Representations, with supporting evidence and policy support.

Principal Submission Areas/Issues

I. **The Costs and Disbenefits of the LTC Scheme outweigh the benefits it brings. The LTC Scheme and its Transport Business Case no longer represents 'Value for Money'**

- 10 The Council contends that the requirements within the National Policy Statement (NPS) for the economic case prepared for the 'transport business case' are not provided accurately within the DCO application, as required within Section 4.5 of the National Policy Statement for National Networks (NPSNN). This may affect the ExA's consideration of the adverse impacts and benefits. The Council therefore wishes to set out its contrary case within the LIR, supported by clear evidence.
- 11 The Council's request for access to the Outline Business Case (OBC) during 2022 was rejected twice by NH, but eventually provided by NH in late October 2022 (after the DCO submission) after being required to do so by the Information Commissioners Office (ICO) in July 2022. The OBC provided by NH is dated August 2020 and NH have confirmed it is the latest version. The latest estimates of the cost of LTC is found within the RIS2 document and is given as a range of £6.4 – £8.2 billion (page 90) and in the NAO Progress Report on RIS 2 (dated November 2022) it is revised to £5.3 – £9 billion (page 24), stating a cost increase of £1.9 billion since March 2020, i.e. in just 2.5 years. This is not accounted for in the latest Outline Business Case, dated August 2020, and given concerns about other, unaccounted for disbenefits, this is likely to significantly adversely affect the scheme's 'value for money'.
- 12 The Council intends to also demonstrate that adverse impacts of the project significantly outweigh the perceived and wider benefits of the scheme, as set out by NH within the application document Combined Modelling and Appraisal Report (ComMA) and its Appendices (PINS Ref. Nos. APP-518 – APP-527) and other parts of the DCO application. An evidence-based study to examine the benefits and disbenefits presented in the ComMA was in progress but has been on hold since the S114 notice. Subject to agreement with NH on the PPA Variation and sufficient time before the Examination, this will encompass:
 - a. Wider economic benefits;
 - b. Travel time disruption costs;
 - c. Thurrock's Commercial Land and Property Costs;
 - d. Costs on key aspects of the Environment; and,
 - e. Costs on Residents' Health and Wider Lost Investment Costs – updating the previous Hatch Economic Costs Study (dated February 2020).
- 13 Evidence is intended to be presented to substantiate the case that the NH appraisal fails to account for significant disbenefits to residents, businesses and travellers within Thurrock and that this would

contribute to the negative impact of disbenefits on its Outline Business Case. The Council will set out specific examples of:

- a. Transport/highway/public transport disbenefits, in both the construction and operation phases that contribute to this outcome;
 - b. Uncertainty for the council in its emerging local plan and its growth agenda;
 - c. Uncertainty of impacts on local residents without further mitigation and compensation; and,
 - d. Other, non-monetised impacts.
- 14 In considering 'value for money', it is vital to compare these disbenefits against the anticipated benefits (assuming that there are) against the NH LTC Scheme Objectives and the performance against each of these 7 objectives, as set out in NH's application document 'The Need for the Project' (PINS Ref. No. APP-494). This will be undertaken as part of the evidence-based work within the LIR.
- 15 In parallel, the Council intends to set out the fundamental issues on the net benefits for users travelling within Thurrock with the NH wider economic benefits case. For example, NH claim that 46% of scheme benefits are from the wider economic benefits, such as agglomeration and a further 15% is from journey time reliability, but no evidence is provided.
- 16 The consequences of late sharing of the OBC and these increasing costs is that the Council has not had sufficient time to scrutinise the OBC. Furthermore, the resulting 'Benefit Cost Ratio' (BCR) has been reducing and is currently set at between 1.09 – 1.36, depending on the growth scenario used – this is categorised by DfT as a 'low' value for money category. Clearly, by updating the costs, the OBC and recognising the disbenefits more clearly and the lack of the scheme achieving its objectives, is likely to cause this BCR to reduce further.
- 17 The Council's concern about the scheme's 'Value for Money' is closely aligned with its concerns about the under-estimation of traffic congestion on local roads and lack of consideration of alternative measures and current lower traffic forecasts (see Sub Section III below), which critically undermines the transport business case. The Council will present detailed evidence within the LIR to demonstrate this issue. This particularly relates to Items 2.1.155 – 2.1.157 within the draft SoCG.

II. LTC Scheme fails to achieve key Scheme Objectives

- 18 A key strategic objective for the LTC scheme is that it should provide relief to the existing Dartford crossing and that this should lead to benefit for the local communities and environment. However, according to the revised LTAM model provided to the Council in May/June 2022, the reduction of traffic on the Dartford Crossing is now reduced to approximately 4% within 15 years of scheme opening and not the 20% claimed by NH (Item 2.1.157 of the draft SoCG) – it is predicted to return to the congested 2016 'existing' condition between 2038 and 2041.
- 19 In order for LTC to meet its scheme objectives, this very limited theoretical and marginal benefit needs to be assessed in the light of a wide range of disbenefits, (many of which are dealt with later in these representations) and the reliability of the modelling on which this benefit is predicted. For example, if the modelling under predicts local impacts and fails to fully reflect the implications of a later opening year, or changes in traffic demand that have occurred as a result of the pandemic, this could well significantly change the conclusions about the relative benefit gained from a transitory theoretical improvement in delay at the Dartford Crossing.
- 20 The Council is firmly of the view that the LTAM is in need of rebasing to reflect the delay to the scheme, which was the subject of the Ministerial Statement (PD-011). It is now **known** that the scheme will be delivered at the earliest by 2032, (rather than the previously assumed opening year of 2030), some 16 years after the current baseline data. This is clearly not in line with DfT guidance about the use of data, for example:
- a. DfT guidance for technical project managers, ([TAG TPM - Guidance for the Technical Project Manager \(publishing.service.gov.uk\)](#)) states at paragraph 3.2.8 that, '*each model should be*

assessed on the basis of: the structure of the overall model and its components; the age, quality and spatial coverage of the underlying data; and, the model's adherence to quality criteria for calibration and validation.'

- b. Also, at paragraph 3.5.1, this guidance states '*As part of producing an appropriate analytical tool, it is important that models are based on up-to-date evidence and are demonstrated to produce realistic results when tested. Without this assurance, results from a model may not be sufficiently robust to be used to adequately assess impacts of a potential intervention.*'
 - c. DfT guidance on Data Sources and Surveys (TAG Unit M1.2 - Data Sources and Surveys (publishing.service.gov.uk)), says at paragraph 3.3.40, '*All data should be checked to identify and remove any that might have been affected by unusual events. Where data quality is suspect, the data should be investigated thoroughly and, if necessary, rejected.*'
- 21 The current traffic model is underpinned by data which dates from 2016. With the scheme opening now delayed until 2032, this data predates the opening year by 16 years. It also predates the pandemic which has resulted in a number of changes to patterns of travel demand, and which will significantly affect planning for future transport projects. The Council contends that the Lower Thames Area Model (LTAM) is no longer fit for purpose. The underpinning data is no longer up to date, and if the pandemic is not an 'unusual event', then there would appear to be no event that would fit within this category at the strategic level. The model therefore needs to be rebased using new and relevant post pandemic data.
- 22 There is therefore significant uncertainty about the validity of the forecasts, and the implications of this are exacerbated now that scheme opening is two years into the 5 year flexibility window proposed by NH in the draft DCO. Given that the construction programme has been squeezed from 7 years to a highly ambitious 6 years in order to meet the published timetables for a 2030 opening, as well as the need for greater (pre or post application) consultation and the potential for further delays resulting from further challenge, this scheme could quite easily be implemented beyond this three year window.
- 23 It is not known how this delay to the project would affect this marginal gain because NH consider it unnecessary to assess the implications, but it can be seen how small changes in timing might affect the stated benefits and thus the case for the scheme. This is one example of why the Council believes that the underpinning evidence for the scheme needs to be reviewed, with the latest, post-pandemic data.
- 24 In any event, the main scheme objective of '*To relieve the congested Dartford Crossing and approach roads and improve their performance by providing free-flowing north-south capacity*' cannot reliably be said to have been achieved, except for a very short term relief from the scheme opening. Consequently, when this is combined with the costs and the disbenefits, it is clear to the Council that the project's 'Value-for-Money' (VfM) is very poor. In addition, the intended benefits for the environment and local communities will be marginal.
- 25 The draft SoCG outstanding issue (relating to need for the project) will also be dealt with, namely Item No. 2.1.57, by providing the Council's case in answering the NH responses and setting out the key issues within its PADs Summary and LIR.
- III. Local Roads Congestion is not adequately mitigated and Key Local Roads and Junctions fail or are congested during Operation (wider network impacts), as seen in the Local 'VISSIM' Junction modelling and through analysis of the LTAM Cordon Model**
- 26 As stated above at paragraph 19, the Council is concerned that the data underpinning the LTAM is out of date and does not reflect significant events (the pandemic), in contravention of current DfT guidance. In addition, the LTAM is a strategic traffic model which has insufficient definition of the local highway network to be a robust tool for considering the local impacts of LTC. In combination, the Council believes that the LTAM is not fit for purpose for the assessment of traffic effects in the local highway network across Thurrock.

- 27 It is accepted practice that local network implications are tested on local operational models, using local validation to test fitness for purpose. The Council has secured an undertaking from NH to develop local operational models to assess the impacts of traffic arising from the LTC at Orsett Cock Roundabout, Manorway Junction and an East-West model including Daneholes Roundabout. This work has not been completed, nor has an agreed position been reached about the impacts of the scheme on the local highway network or any necessary mitigation. The Council has also sought further modelling of other locations, including Asda roundabout, which has not been agreed.
- 28 The Council is also concerned that the modelling undertaken to date has not taken into account the impacts of the Local Plan or the development of the Freeport. There is therefore a significant risk that the conclusions being reached on the basis of current modelling will very quickly be out of date, that impacts will be greater, and that the onus of rectifying the impacts of the scheme will fall to the local authority to resolve at a later date.
- 29 Due to Council concerns about future junction performance, the Council and NH undertook a local VISSIM model of the LTC/A13/Orsett Cock Roundabout/A1089 interchange junction in 2021. It took over 10 months to complete it, due largely to NH delays. It should be noted that this local model did not model the impact of Local Plan growth or Freeport growth or the need for additional signalisation and PRow provision and so the Council's concerns about capacity are under-stated. It is understood that these modelling results are not part of the DCO application at present but do need to be included in the ExA's considerations.
- 30 In summary, the conclusions from this local modelling are, as follows:
- a. NH has chosen to use Thurrock's local roads (especially Orsett Cock Roundabout) as a core part of LTC providing existing vital Strategic Road Network (SRN) to SRN links, but fails to deal with the consequences of increased traffic at this location;
 - b. NH's strategic traffic model (LTAM) seriously underestimates the impact of the LTC scheme on critical junctions, such as the LTC/A13/Orsett Cock Roundabout/A1089 interchange junction and Manorway junction;
 - c. It took some 10+ months for NH to complete this critical VISSIM modelling of Orsett Cock Junction and the results was finally shared with the Council in early October 2022;
 - d. VISSIM modelling shows Orsett Cock will be oversaturated with long queues and delays at opening and in 2045 (and there are other factors that mean that, in reality, queues will be longer than currently presented);
 - e. There will be constraints to access for both the Port of Tilbury on the LTC/A13 off-slip and to DP World/London Gateway;
 - f. NH have known about this issue for a long time and have not resolved it;
 - g. To assume these serious unresolved issues are not of consequence and to submit only the LTAM strategic modelling within the DCO application (as the VISSIM modelling is not currently part of the application) is misleading, as it does not show the full potential impact of the scheme;
 - h. The quickest way to address this issue is to pause and rethink this junction scheme design and address alternatives; and,
 - i. The Council is very concerned that NH has submitted the DCO application when it is clear that the **NH/Council joint modelling shows that LTC scheme does not work.**
- 31 In addition to the issues above, a significant but related concern is the **effect of LTC's operation on Thurrock's local roads affecting local connectivity**, which has been and continues to be a key concern of the Council. In fact, the Council has consistently and repeatedly raised concerns at meetings and via representations that the impacts on the local roads and junctions are likely to be underestimated resulting in increased likelihood of delay at key junctions, such as the Orsett Cock, Manorway, Daneholes and Asda roundabouts and several other key locations (Items 2.1.159 – 2.1.162 within the draft SoCG).

- 32 NH and the Council have previously agreed that further traffic modelling work is required to validate the LTAM model and identify these delay issues. The accepted approach to this is to use a local model (such as VISSIM) to undertake more detailed local modelling and for the results to be iterated with the strategic model to achieve a better representation of anticipated operational conditions. This work is in progress for Manorway and for an East/West corridor model, including Daneholes Roundabout, but this work is not complete, nor does it cover all locations of concern.
- 33 This work should then be followed by the development of improved mitigation proposals from LTC to address the identified impacts. These mitigation proposals could take the form of junction improvements and/or complementary environmentally-sound initiatives, including enhanced public transport and active travel connections and provision. This is the approach NH would take with any scheme promoter which affected its highway, yet any consideration of mitigation are completely missing from the current proposals.
- 34 The Council contends that the impact on local roads must be part of the traffic modelling evidence base and if mitigation is required then NH should legally commit to a process for that mitigation (possibly a S278 or S38 (of the Highways Act) Agreement or similar or even through a new Schedule 2 Requirement, discharged by the Council).
- 35 These **wider network impacts** have been discussed with NH over the past two years at many technical meetings without any resolution to the many issues raised. The Council's major concerns are that local junctions (some 13 local junctions are impacted) and roads will experience additional congestion and serious impacts due to the LTC.
- 36 Furthermore, although NH may have committed to monitor such effects post-opening, it will not agree to mitigate adverse effects observed, which leaves the Council with significant issues and further expenditure to undertake such mitigation in the medium to long term should it be required. Also, the Council require further local junction modelling at key junctions to determine impacts and potential mitigation and NH will not commit to this action.
- 37 In addition, specific Council comments have been made on the Wider Network Impacts Management and Monitoring Plan (WNIMMP) (PINS Ref. No. APP-545) in September 2021 and the Council has not received any responses to such comments prior to the DCO submission.
- 38 The draft SoCG outstanding issues (relating to design of roads, tunnels and utilities) will also be dealt with, namely Item Nos. 2.1.84 – 2.1.99, 2.1.143 – 2.1.157 (relating to traffic and economics) and Items 2.1.158 – 2.1.168 (relating to wider network impacts), by providing the Council's case in answering the NH responses and setting out the key issues within its PADs Summary and LIR.

IV. The Current Design of Key Elements of the Scheme on which the Council require further amendments

- 39 There are a number of scheme elements that the Council has consistently challenged NH on over the past two years and requested changes only to be refused by NH and these will now be outlined so that the ExA can understand the reason for, purpose and value of such changes. All these design elements were part of the Council's comments on both the Community Impact and Local Refinement Consultations in July – September 2021 and May – June 2022 respectively. These key design elements are, as follows:
 - a. **Interchange Junction between LTC/A13/Orsett Cock Roundabout and the A1089** – the Council contends that this junction is overly convoluted; confusing and potentially unsafe for users, whilst also sterilising a large area within the Borough. This is a significant element of the scheme and lacks any significant options appraisal. As is noted in Sub Section III above, the junction is congested and is likely to be oversaturated with long queues and delays both at opening in 2030 and worse subsequently in 2045.

Notwithstanding this, the proposals for this junction uses Council local roads to provide critical SRN to SRN connections. This serves to reduce the cost of LTC by using this local highway road and junction but will inappropriately increase future financial burden on the Council, by

placing SRN traffic on this Major Road Network (MRN) junction. It will also mean LTC traffic will use up capacity delivered at this junction as part of the recent and expensive A13 highway upgrades undertaken by the Council to support local growth requirements and aspirations. The Council made three specific suggestions in the Local Refinement Consultation, but these have not been incorporated by NH – these will be examined in more detail in the Council's LIR. Therefore, the Council is concerned it will be burdened with financial responsibility for future improvements and maintenance costs at this junction, which will effectively be operating as a crucial part of the SRN.

NH issued the Council with a Technical Note in May 2021 summarising its position on the process it adopted for developing the LTC/A13 junction design and was titled 'Lower Thames Crossing - A13 Junction Design Approach' (May 2021). Following this, the Council provided NH, in October 2021, with its Technical Paper that reviewed this junction's design approach and despite a series of technical exchanges, its recommendations have not been incorporated into the LTC scheme. Subsequently, the Council issued to NH, in January 2022, a further Technical Note setting out 10 serious and specific concerns about the safety and operation concerns relating to this interchange junction, including a review of the NH Road Safety Audit that identified serious concerns.

In view of these concerns, the Council requires NH to extend the A13 trunking from the A1089 up to and including the A13 Orsett Cock junction. However, NH's trunking/de-trunking proposals are not part of the DCO application (as a Trunking Order under Section 10 of the Highways Act, 1980) and are not yet clear or been the subject of effective technical engagement and/or consultation. However, if this wider interchange junction were trunked then it would place a duty on NH to implement high standard connections for active travel and provision to allow a good public transport service, both of which form part of the Council's concerns about the operation of this junction.

In conclusion, the Council disagrees that sections of the LRN/MRN should be utilised as part of the SRN without suitable justification, analysis, mitigation and agreement as to how that would operate within the wider road network.

- b. **Manorway Junction** – in early May 2022 both the Council and DP World/London Gateway (DPWLG) sent a joint Technical Note to NH expressing concerns about the effect of LTC on the performance of Manorway junction. This set out four key issues to resolve, as follows:
- LTC generates significant additional traffic on Manorway, which contributes to it experiencing traffic flows over its critical operating threshold. LTC is expected to create delays and queuing at Orsett Cock junction, which NH has not resolved. Unless these are resolved congestion at this junction will further exacerbate traffic congestion at the Manorway junction;
 - LTC also creates significant wider network issues, such as rat-running and new diversion routes when incidents occur on the SRN, which if not addressed will further increase pressure on Manorway junction;
 - The route to the Port at DPWLG should be part of the SRN, which should connect with strategic Ports; and,
 - NH must collaborate with the Council, DPWLG and other parties with interest in managing future growth/impact on the junction, to identify a scheme, determine proportionate funding contributions and mechanisms to ensure that the traffic generated by LTC does not contribute to conditions which inhibit port access.

Subsequently a series of technical meetings have taken place through 2022, but no amendments to the LTC scheme have been undertaken and there has been little progress on resolving these issues. This remains a serious outstanding issue for both stakeholders.

- c. **Asda Roundabout** – the Council is still reviewing the operational performance of Asda roundabout as part of its analysis of the LTAM cordon model. Notwithstanding this, the Council is concerned about its performance during construction, particularly on the effects of HGV movements and worker traffic – NH do accept that there will be increased traffic through this junction and state that these will be managed through the oTMPfC (PINS Ref. No. APP-547). In addition, NH has so far refused to undertake local junction modelling of this junction explaining that the LTAM model demonstrates it works satisfactorily – this is despite the fact that at Orsett Cock junction local junction modelling demonstrates serious issues whereas the LTAM model does not (refer to Sub Section III above), i.e. demonstrating a contradiction of evidence. The Council therefore contends that this junction requires detailed analysis to demonstrate its acceptability during construction and for NH to commit to any mitigation that is deemed necessary.
- d. **Tilbury Junction** – NH has provided an operational and emergency access at Tilbury, which the Council consider is in fact a 'junction'. This was provided by NH in spring 2022 as part of changes within the Local Refinement Consultation and after consistently refusing to provide any junction here since 2018. Whilst the provision of a junction here is supported in principle by the Council even for operational/emergency purposes (as NH maintain). However, in the Council's view if provided it needs to be 'fit for purpose' in the future as a local highway junction and should facilitate the provision of a Tilbury Link Road (TLR), which is not part of the LTC scheme.

The Council expects NH to demonstrate that the proposed junction design will provide the vital capacity, connectivity, configuration and operational performance required to accommodate future traffic, public transport and walking, cycling and horse-riding (WCH) movement demands arising as a result of the proposed LTC scheme configuration, with a TLR in place and with local growth aspirations for the area (e.g. Thames Freeport expansion and the emerging Thurrock Local Plan). This evidence has not been provided thereby making it impossible for the Council to take a reasonably informed position on this junction proposal and design. The Council have undertaken two studies in spring and autumn 2022 respectively: an options appraisal of the TLR route with the Port of Tilbury; and, a detailed capacity assessment and configuration appraisal of the proposed 'junction'. These studies have not yet been shared with NH as work on LTC was paused at the end of 2022 due to the S114 Notice that prevented any work until a full financial business case for ongoing work had been presented and agreed. This work will form part of the LIR.

For the 'Capacity Assessment and Junction Configuration' study there were four conclusions to highlight to the ExA:

- The proposed NH junction design cannot accommodate the traffic from any of the future demand scenarios. This indicates that NH's configuration of the junction does not provide adequate capacity to support traffic demand associated with future delivery of a Tilbury Link Road and/or committed future development across the area, including the Port to the west and at East Tilbury to the east of the junction. It would therefore also not support future growth aspirations and movement demands associated with the Port of Tilbury or developments sites proposed as part of the emerging Thurrock Local Plan.
- NH has undertaken strategic modelling of alternative LTC scheme options encompassing different combinations of A13 junction arrangements and TLR connectivity. The proposed NH junction design cannot accommodate the levels of demand forecast at this junction in any of the alternative options considered.
- With roundabout improvements and slip-road widening, both the 'high' and 'low' demand scenarios on the TLR can be accommodated, but only if a general traffic connection to East Tilbury is not provided, i.e. allowing public transport and active travel connection only.
- The proposed NH layout for Tilbury Junction does not include dedicated facilities for public transport or active travel. Space should be provided on the road linking the two roundabouts to provide flexibility to reallocate road space to public transport in the future. Additionally, a combined 5-metre active travel route should be provided on the southern side of the road between the East Tilbury connecting corridor and the Tilbury Link Road.

- e. **Tilbury Viaduct** – this structure is one of only two viaducts within the LTC scheme, the other being two linked viaducts in the Mardyke Valley to the north and it is considered a major structure, extremely visible from the surrounding area and located in an area of future growth. Within the Design Principles Table 4.4 (PINS Ref. No. APP-516) some six structures are designated as ‘Project Enhanced Structures’ that are required to use a coherent, distinctive, and consistent design approach with a recognisable design language and consistent material palette. Tilbury Viaduct has not been designated as such and so the Council require that it becomes a Project Enhanced Structure in order to improve the current ‘standard design’ approach. Tilbury is an area of multiple deprivation and yet the Tilbury Viaduct is a missed opportunity for a well-designed structure. The lack of design quality measures for this area will only worsen the environment for this population. Furthermore, the priority and logic for which structures are enhanced and which are not enhanced remains unclear. Also, the specification and detail for the structures that are not enhanced is not clear.

In addition to the above concern, the Council remains concerned that the separation of habitats between the Tilbury Fields area to the south of the Tilbury Loop railway line and areas north of the railway line caused by the Tilbury Viaduct has not been satisfactorily addressed by NH and requires further work to demonstrate that this separation is prevented, possibly by the creation of a new wildlife corridor. This issue will be discussed further with Natural England and form part of the LIR.

- f. **Active Travel and Public Transport Provision on the 13 LTC Bridge Crossings** – the Council has been in discussions with NH for almost two years about the design of the 13 bridge crossings of local roads by the LTC scheme. Although there has been some progress, the provision for active travel and public transport on these bridge crossings remains unsatisfactory. This matter was first included as mitigation measure L12 within the Hatch Mitigation Measures report in February 2021, which was shared initially with NH in November 2020. Following discussions and a refusal by NH to amend their bridge crossings design the Council provided, in October 2021, a detailed table with a map of the crossings and setting out the current NH bridge widths and provision for active travel and public transport, discrepancies in the widths between different NH’s technical documents and the Council’s preferred requirements. This matter was then debated and culminated in the NH final response in summer 2022 setting out amended bridge widths and provisions and subsequently providing excerpts from the Design Principles (PINS Ref. No. APP-516). The Council responded, explaining via a table with reasons, why in most cases the bridge widths are still inadequate. This matter remains not agreed by the Council.
- 40 The draft SoCG outstanding issues (relating to design of roads, tunnels and utilities) will also be dealt with, namely Item Nos. 2.1.84 – 2.1.99, 2.1.102, 2.1.143 – 2.1.150 and 2.1.153 (relating to traffic and economics), 2.1.256 and Items 2.1.158 – 2.1.168 (relating to wider network impacts), by providing the Council’s case in answering the NH responses and setting out the key issues within its PADs Summary and LIR.
- V. Adverse Impacts from Construction have not been adequately Mitigated/Compensated and are not sufficiently covered in Control Documents or Agreements**
- 41 The Council contends that the LTC construction for a period of 6-8 years will create unacceptable impacts that require significant mitigation. Further work on construction traffic modelling is still required to understand likely impacts and more robust traffic management (PINS Ref. No. APP-547) and travel plans (PINS Ref. No. APP-546) are required with defined governance, complemented by a progressive outline Materials Handling Plan (oMHP) (PINS Ref. No. APP-338) that together maximise non-road transport, minimise impacts on local communities and reduce embedded carbon. Sustainable travel plans for workforce travel also must be secured, with clear targets, through encouragement of the use of active travel modes and reducing private car use within its Framework Construction Travel Plan (FCTP) (PINS Ref. No. APP-546).
- 42 In addition, the Council contends that environmental impacts are likely to be significant and that consideration of mitigation must be based on more granular and updated data, especially in respect

of air quality, noise, health, severance, effect on PRoWs with closures and diversions, loss of historic buildings and deleterious effects on cultural heritage and other key topics. Utility relocations are extensive and whilst reduced impacts have been achieved over the last year, there is still a lack of information on likely impacts on residents and businesses. Monitoring during construction for a range of factors is essential and the proposed monitoring regime to inform key control, management and governance is unclear.

- 43 The Council has requested a number of additional 'Information Requests' for a range of topics in December 2022 to support further analysis of the DCO application documents and still awaits a response from NH in late April 2023.
- 44 The Council's and its resident's overall concerns rightly concentrate on impacts of construction on the local community, property and land impacts, traffic impacts and detrimental traffic increases, significant effects of noise, pollution, and traffic over 6-8 years, 24/7 working impacts and a range of environmental impacts. NH responses prior to DCO submission were only general in nature and reaffirmed that correct processes had been followed, referred to previous information in the consultations, broadly reassured residents that all impacts have been considered and appropriate mitigation employed. Importantly, NH did not acknowledge any shortcomings. NH concentrated on their scheme design changes maintaining instead that they have 'further reduced' impacts. The Council's contends that it is completely reasonable to see a more detailed assessment of construction effects and how these are going to be mitigated and managed. Until this information is made available, the Council continues to contest these conclusions by NH.
- 45 The Council and its local residents are very concerned about the insufficiency of mitigation and that mitigation measures will not be implemented. Concerns include an unacceptable loss of woodland, insufficient measures to mitigate carbon emissions, inadequate noise mitigation, poor traffic management measures leading to local traffic congestion and more pollution. Despite ongoing technical engagement, some progress towards the reduction of predicted impacts and the promotion of LTC as a so-called 'pathfinder' project to explore carbon neutrality (a status that is not adequately explained). The approach to construction remains general in nature with no definitive approach to securing future mitigation and management that can be relied upon through the DCO or its control documents. The Council contends that mitigation within the scheme design and in 'control documents' is inadequate, and this will be explained in more detail in the Council's LIR.
- 46 The range of construction issues is extensive and will be dealt with in the LIR, covering construction phasing, working hours, use of port facilities and marine transport, HGV movements, excavated materials and their use, designated construction access routes and 'rat running', haul road alignments and connectivity, local construction impacts, monitoring, outline Traffic Management Plan for Construction (oTMPfC) and Framework Construction Travel Plan (FCTP) (PINS Ref. Nos. APP-547 and APP-546) content, targets, enforcement and coordination, incident management, impacts on vulnerable users and on bus routes, cumulative construction impacts and worker accommodation and travel. All these draft SoCG outstanding issues will also be dealt with, namely Item Nos. 2.1.107 – 2.1.140, 2.1.160, 2.1.233 – 2.1.236 and 2.1.243 – 2.1.255, by providing the Council's case in the LIR and answering the NH responses and setting out the key issues within its PADs Summary and LIR.
- 47 In order to offer a 'flavour' of the Council's case on these above and critical key construction matters, we set out below the Council's main 5 issues:
- a. **Marine transport** – a joint review of the oMHP (PINS Ref. No. APP-338) was undertaken by the Council and the Port of London Authority (PLA) and a Technical Note was prepared setting out joint comments. This was sent to NH on 21 October 2022 setting out an agreed view of both stakeholders on this critical issue. A response was received from NH on 15 February 2023 and this will be reviewed and any comments included within the LIR. The Council's Technical Note set out detailed comments on the NH baseline commitments and offered a technical appraisal of sustainable options as a way forward.

In summary, both stakeholders were extremely concerned that NH is not applying sufficient weight or credence to a strategy to reduce the safety impacts and minimise the environmental

impacts of the material, plant and equipment handling for the project, adopting instead a 'road transport first' strategy. Both the Council and PLA are seeking for NH to adopt:

- Further DCO commitments to materials, plant and equipment handling by non-road-based transport;
 - Provide evidence of a revised and refreshed adopted strategy that demonstrates the progressive, stretching and binding targets and commitments for the project;
 - Build positively on the precedents set by other major infrastructure projects and set out the benefits and legacy of the adopted strategy;
 - Define the procedures and governance that would accompany the adopted strategy, including the involvement of the PLA and the Council; and,
 - Set out and secure its commitments and governance processes within the DCO and appropriate 'Control Documents'.
- b. **HGV movements** – the Council has not had any prior opportunity to review the evidence, assessments and conclusions of the Transport Assessment and its Appendices (PINS Ref. Nos. APP-529 – APP-538) and has not yet had an opportunity to review and discuss its outputs with NH. The Council is concerned that there is limited evidence of likely HGV movements and there is no cap on any movements or clarity on how HGV's will be managed on the local road network. The Council is concerned that there is the potential for serious local highway issues to arise that will be to the detriment of residents and that there are no plans secured through the DCO that enable the Council to seek resolution to these issues, until more detailed management plans are prepared by the main works contractors. Without independent examination of these issues, the Council is concerned that significant issues will not be resolved properly.
- c. **Construction access routes, haul routes and 'rat running'** – the Council is not clear on the detail of the proposed broad construction access routes and that there are gaps in the proposed haul routes. It is concerned that this will constrain the ability to serve construction sites from the river and put unacceptable pressure on local roads. This concern was communicated to NH in early May 2022 by providing detailed comments on 39 locations of concern and in late May 2022 providing concerns about haul road gaps. However, there has been no satisfactory response or solutions to date, despite several technical meetings. In addition, there are two routes/areas of potential harm due to rat running (Linford Road/Station Road and Orsett) and despite highlighting concerns about local congestion, no solutions have been provided by NH.
- d. **Adequacy of the Framework Construction Travel Plan (FCTP)** – many detailed technical comments were provided on the FCTP (PINS Ref. No. APP-546) at both the Community Impact (summer 2021) and Local Refinement (spring 2022) Consultations and despite several technical meetings, there has been little confirmation from NH as to how such comments have been accounted for and solutions provided. The Council remains seriously concerned that there are no targets committed to for increasing the use of sustainable modes for worker journeys and measures to encourage such modes are weak.
- e. **Worker accommodation** – detailed comments on the Worker Accommodation Report (WAR) (PINS Ref. No. APP-551) have been provided in October 2020, which NH responded to in February 2022. Some technical discussions have been held in the two years prior to the DCO submission. The Council remain seriously concerned that NH has not yet resolved key issues raised by the Council:
- That the local rented sector cannot accommodate the demand from workers and will cause an increase in rents, deleteriously affecting the local community;
 - That access to accommodation and welfare facilities for workers is not clear, committed or managed, especially outside normal working hours; and,

- The analysis provided in the WAR is flawed. The current proposals also provide no legacy benefit to the Council.
- 48 There are a further nine control documents and seven have a bearing on construction within this representation and many aspects that were discussed with NH need to be checked in detail and then relevant comments included in the LIR. These documents are the Code of Construction Practice (CoCP and its Register of Environmental Actions and Commitments (REAC)), the Stakeholder Actions and Commitments Register (SACR), Outline Materials Handling Plan (oMHP), Outline Site Waste Management Plan (oSWMP), Draft Archaeological Mitigation Strategy and Outline Written Scheme of Investigation (AMS-OWSI) and the Carbon and Energy Management Plan (CEP) (PINS Ref. Nos. APP-336, APP-554, APP-338, APP-337, APP-367 and APP-552 respectively).

VI. Alternative Scheme Elements and Transport Modes are not adequate or incorporated in the LTC Scheme

- 49 The Council initially technically engaged with NH on alternative scheme elements and transport modes in January 2021 and this detailed written exchange continued throughout 2021. Unfortunately, NH did not respond positively to any of the suggestions raised during this period. Consequently, the Council has serious concerns that NH has not complied with key requirements within the NPS. These can be summarised, as follows:
- a. The LTAM traffic modelling excludes any accounting for the changed traffic growth trajectory caused by the Covid-19 pandemic, the need to decarbonise transport, recent cost of living issues, Brexit or recent tax changes and therefore the LTAM does not reflect the current lower traffic forecasts;
 - b. There is an absence of traffic modelling for resilience to future change, such as travel trends, mode shift and emerging technologies;
 - c. Lack of alternatives considered for the highly complex, land-hungry A13 junction and the absence of modelling evidence for any evaluation of such alternatives and no assessment of any alternatives have been presented;
 - d. No inclusion of the TLR within the scheme or connections to the LTC and local roads, thereby preventing significant reductions/changes in the A13 junction design;
 - e. There are no deliverable plans to provide adequate connectivity to facilitate sustainable local development (a key LTC Scheme Objective);
 - f. No assessment has been made of the potential benefits of including the TLR within the scheme or connections to the LTC and local roads, thereby preventing significant reductions/changes in the A13 junction design;
 - g. There are inadequate connections with active travel and public transport (there is no provision for alternative modes through the tunnel) and local road bridges over LTC are inadequately designed to allow for adequate space for both future active travel and public transport use;
 - h. The design also excludes any provision for public transport connections or priorities from key areas linking through the LTC tunnel, thus making public transport connections circuitous and unattractive;
 - i. No provision is made for the measures needed to support rapid electrification of the vehicles fleet, such as provision for electrical distribution and charging facilities, as set out as being critical for the decarbonisation of the surface transport sector in Decarbonising Transport (July 2021) and the Carbon Budget Delivery Plan (March 2023); and,
 - j. There is no strategy for charging/demand management to reduce/control demand beyond replicating the charging regime of the Dartford Crossing.
- 50 The draft National Networks NPS, currently out for consultation, further reinforces the need to consider these issues. There are a range of changes from the 2015 NPSNN, which are relevant to these considerations:

- a. A greater emphasis on meeting net zero for transport (paragraph 2.18ff);
 - b. The need to consider resilience to climate change (paragraph 3.34ff);
 - c. The need to enable more active travel and public transport (paragraph 3.42);
 - d. The need to provide genuine choice of transport mode by increasing accessibility to public transport, connecting places and by improving the environmental for journeys by active travel (paragraph 3.42);
 - e. The need to integrate with spatial planning to support walking, cycling or public transport as the natural first choice for journeys (paragraph 3.42); and,
 - f. Greater deployment of technology to make more efficient use of the network, including support for alternative fuels (paragraph 3.42).
- 51 The Council contends that significant progress could be made towards these objectives without incurring large public cost and that it is regrettable that NH have persistently resisted the Council's entreaties to respond more positively to National Government policy about the promotion of alternative modes and the response to the climate emergency.
- 52 The draft SoCG outstanding issues (relating to route selection, modal alternatives and assessment of reasonable alternatives)) will also be dealt with in more detail in the LIR, namely Item Nos. 2.1.63, 2.1.66 – 2.1.70, by providing the Council's case in answering the NH responses and setting out the key issues within its PADs Summary and LIR.
- VII. The Need to comply with the Government's and NH's Net Zero guidance/policies, account for the effect of Climate Change and account for carbon costs in the Scheme Disbenefits**
- 53 The Government's Transport Decarbonisation Plan makes it clear that decarbonisation of the transport sector is critical to the challenge of meeting our net zero obligations. Independent assessment of the data underpinning Decarbonising Transport, (July 2021), undertaken by the University of Leeds on behalf of Thurrock Council shows a large reduction (10 – 30%) of the total distance driven on the UK road network is needed to meet the UK's net zero obligations, LTC is contrary to the UK's legal obligations, as modelling demonstrates that the scheme is going to increase both the number of journeys made and the amount of distance driven.
- 54 The Council considers that the NH assessment of carbon impacts is inadequate, incomplete, and inconsistent. It uses out of date economic and policy assumptions and assumptions about the value of carbon. The analysis of traffic growth and vehicle fleet composition are inconsistent with the assessment of carbon and the assessment of carbon impacts of the scheme are incomplete. Overall, the analysis is inconsistent with the Net Zero Strategy, Decarbonising Transport and NH's own Net Zero Highways commitments. The Council contends that the NH assessment is fundamentally flawed, and this will be covered in detail within the LIR.
- 55 The Council has requested a number of additional 'Information Requests' for various topics in December 2022 to support further analysis of the DCO application documents and still awaits a response from NH as at late April 2023.
- 56 Clearly, particularly in view of NH's Net Zero Plan, the project needs to show how it will accelerate modal shift to public and active transport, reduce road user emissions by supporting a transition to EV and decarbonise how goods are received, such as supporting hydrogen-fuelled transport. The Council contends that NH has not demonstrated any of these measures adequately. The current LTC project and the associated climate change impacts appear to be entirely inconsistent with the 78% Carbon Reduction by 2035 and its subsequent Carbon Budget Orders of 2021. The Council expected broad objectives and a framework for future action to be promoted by NH and secured through the DCO, however, currently there are no such commitments.
- 57 It is understood that the Government is also about to impose a requirement to 'Quantify Carbon Reductions' on local authorities through the process of developing their Local Transport Plans. This requirement clearly demonstrates that the need for significant carbon reduction at the local authority

scale is vital, yet no obligation has yet been placed on National Highways to meet the need to 'Quantify Carbon Reductions'. This is obviously inconsistent and undermines the argument that carbon impacts from LTC's operation are insignificant.

58 There are a number of other contributing concerns of the Council, as follows:

- a. Insufficient information is provided to examine the carbon calculations and NH has not yet responded to the Council's request for further information in December 2022;
- b. Assumptions around electric vehicle uptake do not appear to reflect latest DfT guidance (NH only assumes a 44% uptake by 2050, not the 67% assumed in the November 2022 version of WebTAG) and neither provide a deliverable pathway to net zero for the surface transport sector without other, demand management measures being provided;
- c. LTC will generate a new power demand in both construction and operation, especially with the increased movement predicted. The infrastructure required to generate and distribute will be additional to infrastructure already planned for to enable economic growth locally and nationally. The cost of the power generation, distribution and capacity needed to provide for this additional demand has not been factored into the NH appraisal. Nor has the cost to the local economy of constraining available generating capacity during construction, i.e. the cost of additional reinforcement required for any subsequent housing growth been taken into account. The appraisal is not complete without this data being provided;
- d. The economic impact assessment of carbon from NH keeps changing, i.e. in 2020 the Outline Business Case established a cost of carbon of £122m and this has increased to £523m in 2022. The difference has not been explained. Any additional increase would further reduce the 'Value for Money' of the scheme.

59 With regard to the NH reduction of carbon during construction the CEP and the CoCP/REAC (PINS Ref. Nos. APP-552 and APP-336) set out various provisions. The Council requires further DCO secured commitments on the establishment and enforcement of new carbon reduction standards; provision of a 'Low Emissions Strategy' within the DCO; provision of details of infrastructure within the DCO to enable carbon neutral construction; and, secured estimates/targets provided of proposed emissions reductions.

60 In conclusion, it is clear to the Council that there are no deliverable scenarios that deliver net zero transport **without** necessary reduction in vehicle kilometres (vkms) being required to meet the Climate Change Committee, NH's Net Zero Strategy or the Government's Transport Decarbonisation Plan carbon reduction trajectories of 15% - 40% by 2030, depending on assumptions. The Council contends that the current scheme and its various assessments are not in compliance with national policy, guidance and legislation and as such undermine LTC's strategic case.

61 The draft SoCG outstanding issues (relating to climate and carbon)) will also be dealt with in more detail in the LIR, namely Item Nos. 2.1.264 – 2.1.271, by providing the Council's case in answering the NH responses and setting out the key issues within its PADs Summary and LIR.

VIII. Health Impacts within the HEqIA (including severance, accessibility, air quality and noise) are not adequately addressed or mitigated

62 In August 2021, there were nine affected or adjacent local authorities that agreed the scope and then commissioned an Independent Review of the HEqIA from the previous DCO submission. This provided some 13 fundamental Health Impact Assessment (HIA) recommendations and a further seven Equalities Impact Assessment (EqIA) recommendations.

63 In addition, detailed comments were provided to NH in the Council's Community Impacts and Local Refinement Consultation responses in summer 2021 and spring 2022 respectively, to which no written responses were received, although the matters were listed in the draft SoCG. In summary, the key points raised in spring 2022 were, as follows:

- a. The qualitative narrative at that time as to the potential changes in air quality resulting from these traffic flow changes are considered speculative and not in keeping with the seriousness of the health effects of air quality and it is disappointing the NH have given the topic such cursory consideration;
 - b. It was not clear from the information provided at that time whether detailed acoustic modelling has been undertaken for the identified areas or whether adequate calculations have been undertaken to quantify the impacts. The lack of clarity in this regard is disappointing, as the inclusion of the results of acoustic modelling would allow greater insight into where impacts have either improved or deteriorated, as well as provide greater clarity to inform the public. This is particularly of concern close to the southbound off-slip of the LTC, to the east of the A13 / A1089 junction. NH reported a change from a moderate/major beneficial effect to an adverse effect, but does not quantify the extent of the adverse effect; and,
 - c. The Council requested in early 2022 and since for NH to provide inputs and results for air quality and noise modelling assessments in an accessible format to allow meaningful review and understanding, as soon as possible, to enable the Council to review and discuss with NH and any additional mitigation provided in a timely manner prior to DCO submission, as it would take several months to properly assess such results. None were provided.
- 64 Despite a number of Community Impacts and Public Health Advisory Group (CIPHAG) meetings during late 2021 and despite requests, no written amendments to the previously flawed HEqIA were presented to these nine councils, including Thurrock Council in particular during 2022, although two 'NH briefing's' were given in late 2022.
- 65 The Council requested details of the air quality and noise assessments within the DCO application prior to DCO submission, but these requests have been consistently refused by NH. Subsequently, the Council has requested a number of additional and detailed 'Information Requests' in December 2022 relating to air quality and noise to support further analysis of the DCO application documents and still awaits a response from NH in late-April 2023. It is clear that after two years of requesting detailed assessment data none has been forthcoming, making the Council's assessment difficult in its role as technical authority, even given the documents within the DCO application, which are only in pdf format and so cannot be properly interrogated or analysed.
- 66 In mid-2022, following the failure of NH to provide adequate data, the Council undertook its own analysis of the likely air quality and noise impacts based on data from the previous DCO submission and using Council data and published it at that time on its website – [Noise and Air Quality Impacts – Lower Thames Crossing](#) [REDACTED]. The Council produced maps of the likely impacts and concluded that the scheme will significantly increase noise disturbance to households along the route and will affect the tranquillity of open spaces. The project will also significantly increase the number of people exposed to the effects of air pollution in Thurrock and therefore have a negative impact on their health and wellbeing; and LTC will also increase traffic significantly on local roads in Thurrock. The Council has asked National Highways to properly explain these impacts to the Council and the local community, so far without response.
- 67 Notwithstanding this, NH has assessed that a large number of households will experience both air quality and noise increases and decreases and severance from community services. The Council will assess (assuming it receives further detailed data in an appropriate format) the cumulative nature of these changes to determine the levels of significance of these impacts to determine a balanced conclusion, especially in relation to the soon to be implemented improvements in air quality standards within the Environment Act, 2022.
- 68 In addition, with regard to effects on health of light pollution, since DCOv1 there have been numerous changes to elements of the scheme, including the A13/A1089 junction and connections to Orsett Cock and the A128; raising the level of the LTC around North Road, South Ockendon, the arrangement of false-cuttings and other landscape mitigation and the proposed incorporation of tall earth bunds around the A13/A1089 junction. These changes have potential to increase light pollution, or if appropriately designed, to help mitigate some of the effects. The Council has concerns about consequential lighting impacts to understand how areas of the Borough will be affected by LTC.

- 69 The Council will review the current HEqIA and Chapter 13 of the ES and their relevant Figures and Appendices (PINS Ref. Nos. APP-539 – APP-543 and APP-151, APP-451 and APP-175 – APP-177, APP-345 – APP-350 and APP-403 – APP-406) against these previous comments (that were numerous and extensive) and review to determine its adequacy within the LIR. However, it is anticipated that after some two years of technical discussions and little evidence presented during that period only limited improvement will have been made and it will be deemed inadequate.
- 70 The draft SoCG outstanding issues (relating to the HEqIA and Chapter 13 of the ES)) will also be dealt with in more detail in the LIR, namely Item Nos. 2.1.28, 2.1.77, 2.1.155, 2.1.164, 2.1.187 – 2.1.190, 2.1.193 – 2.1.198, 2.1.206 – 2.1.232, 2.1.239 – 2.1.240 and 2.1.264, by providing the Council's case in answering the NH responses and setting out the key issues within its PADs Summary and LIR.

IX. The Council's planned growth through its emerging Local Plan is negatively affected by the LTC Scheme

- 71 The Council's Issues and Option Stage 2 of its emerging Local Plan process identified a number of possible growth areas in late-2018 and these are currently being developed into more focussed options as the emerging Local Plan progresses towards its Regulation 18 submission (of the Town & Country Planning (Local Planning) Regulations 2012). Those potential growth areas which are likely to be directly affected by LTC are: Port of Tilbury, Tilbury, East Tilbury, Chadwell St Mary and South Ockendon.
- 72 The LTC either severs or impacts access to the land available for the provision of homes and jobs in these locations. There are, however, opportunities to deliver improved connectivity that would help to facilitate this growth and the Council have been seeking to ensure that these are considered, safeguarded, and implemented, given that a key LTC Scheme Objective is '*To support sustainable local development and regional economic growth in the medium to long term*'.
- 73 The opportunities that have been discussed with, but not accommodated by NH, include the following: provision of a 'fit for purpose' junction at Tilbury; multi modal access to the Tilbury and East Tilbury Growth areas via the Tilbury Link Road; public transport access and LTC crossing at Brentwood Road; A1013 bus priority; and, provision either for a junction at South Ockendon or upgrading of Medebridge Road to provide a distributor road access.
- 74 The Council continues to be strongly of the view, originally set out in the Issues and Options (Stage 2), that the LTC '*threatens to significantly undermine the Council's plan to meet its housing needs and support economic growth*', by sterilising development opportunities, providing poor connectivity and not adequately mitigating impacts across its land take, particularly west of East Tilbury, north and east of Chadwell St Mary, around the A13 junction and north and east of South Ockendon.
- 75 In principle, LTC presents, along its route, an opportunity to support and enable growth in sustainable locations, particularly in East Tilbury, Chadwell St Mary and South Ockendon in order to meet its LTC Scheme Objective of supporting sustainable local development (as mentioned above). However, this is based on the appropriate alignment of LTC and, critically, improved local access provision. Without confirmation of support on additional junctions (Tilbury, South Ockendon/Medebridge Road and Tilbury Loop Line Overbridge and approach roads), wider network improvements (as discussed above), public transport provision and the provision of more and better WCH facilities, LTC will hamper future growth in Thurrock. This is due to the severance of, or impacts on, the land available for the provision of homes and jobs in these locations and thereby preventing future improvements that would contribute to 'levelling up'.
- 76 The draft SoCG outstanding issues (relating to planning statement/policy and other relevant SoCG topics) will also be dealt with in more detail in the LIR, namely Item Nos. 2.1.59, 2.1.62, 2.1.66, 2.1.70, 2.1.88 – 2.1.89, 2.1.98, 2.1.146, 2.1.153, 2.1.159, 2.1.163, 2.1.165, 2.1.169, 2.1.257 and 2.1.273, by providing the Council's case in answering the NH responses and setting out the key issues within its PADs Summary and LIR.

X. Emergency Services and Safety Partners requirements are not provided satisfactorily and are reserved by NH for more detailed design, thereby compromising their operations during emergencies/events/incidents

- 77 The Council is concerned about the lack of adequate provision for emergency services within the LTC scheme or any securing mechanism for its provision. There is a lack of detail and proposals for measures to support the emergency services and safety partners are absent.
- 78 It does, however, wish to draw attention to the response to NH's Community Impacts Consultation made by that the Emergency Services and Safety Partners Steering Group (ESSPSG) (of which the Council is a key member) in September 2021, which set out their concerns in detail offering 56 recommendations. The ESSPSG obtained all the members' approval to submit this written response. Despite an interim response from NH in November 2021 to each recommendation and a number of ESSPSG and other 'Scoping Group' meetings, there has been limited progress on resolving and agreeing these recommendations and ensuring they are 'secured' within the DCO. This continues to be a serious concern to the Council and to all members of the ESSPSG.
- 79 This concern was amply demonstrated when the ESSPSG formally refused to allow NH to submit any draft SoCG within its DCO submission. This was because the draft SoCG was provided very late in autumn 2022, just prior to DCO submission and besides matters of incorrect detail, was considered far too positive in specifying the status of many issues, which have had little progress over the last 18 months. This draft SoCG is still being considered by ESSPSG members, but despite several technical meetings since the DCO submission no further progress with the original 56 recommendations has been made.
- 80 The ESSPSG (including the Council) will continue to progress its comments on the draft SoCG and review the DCO application (providing its own Relevant Representation and Written Representations) and the Council will provide a more detailed assessment of the issues separately within its LIR.
- 81 The draft SoCG outstanding issues (relating to DCO and Consents and other relevant SoCG topics) will also be dealt with in more detail in the LIR, namely Item Nos. 2.1.8, 2.1.63, 2.1.66, 2.1.69, 2.1.95, 2.1.98 – 2.1.99, 2.1.125, 2.1.141, 2.1.154 and 2.1.277, by providing the Council's case in answering the NH responses and setting out the key issues within its PADs Summary and LIR.

XI. The Issues Identification and SoCG process did not permit full Council involvement leading to many issues unresolved

- 82 The Council originally developed an 'Issues Log' with NH in 2019. This was developed jointly until mid-2022, when the list grew to over 800 issues that were outstanding and unresolved. NH rightly considered that such a number was impractical and difficult to fully understand in subsequent stages of the DCO process. So, by agreement with the Council these were subsequently divided into three groupings. As a by-product, this exercise also substantially increased the overall total number of issues:
- a. Group 1, which contained approximately 730 issues that were duplicates, repetitions, statements, superseded or agreed matters. Some of these were subsequently transferred to Group 3;
 - b. Group 2, which consisted of approximately 1,300 issues characterised by a lack of information or where further technical discussions were required but were not considered significant. Again, some were transferred to Group 3 and are covered in the draft SoCG Items 2.1.78 – 2.1.79); and,
 - c. Group 3, which consisted of approximately 480 issues that were significant/fundamental matters that required further technical discussions.
- 83 Once this exercise was complete the Council and NH jointly combined and simplified these 480 Group 3 issues into approximately 290 significant/fundamental issues so that they could be set out within a draft SoCG. During summer 2022 the Council worked intensively with NH to agree the

appropriate description for each of the Thurrock comments/issues, although the wording was yet to be formally agreed by the Council.

84 Subsequently, the draft SoCG was prepared by NH, the detailed NH responses were included and then the draft SoCG was included in the DCO application without further discussion with the Council. In view of ongoing discussions about Group 2 issues, in early February 2023 it has been agreed to add a number of additional issues from Group 2 into Group 3, demonstrating that the draft SoCG is still not yet in an agreed form, in the Council's view.

85 As further evidence of the lack of an agreed form for the draft SoCG, the Council discussed with NH appropriate wording for the front cover of the draft SoCG, prior to DCO submission. The Council suggested the following text:

'This is a DRAFT Statement of Common Ground (SoCG). It is unapproved and has yet to be agreed by Thurrock Council. National Highways has spent the last 2-3 months clarifying/summarising the large number of significant issues into this SoCG. Therefore, this DRAFT SoCG only represents National Highways' understanding of the issues and the status of discussions with Thurrock Council as at October 2022 and there remain a significant amount of further work to establish an agreed first draft. Thurrock Council requires further time to complete its review of this DRAFT SoCG in accordance with its local authority governance process. Thurrock Council continues to have a strong desire to undertake constructive engagement with National Highways to address the substantial number of issues prior to the DCO Examination period, as is normal practice. Thurrock Council intends to complete its review of the DRAFT SoCG prior to DCO Examination as is the normal process, although given the large number of outstanding significant issues we consider that it is likely to require further updates throughout the Examination.'

86 Subsequently, NH have included the following, quite different wording:

'This is a draft Statement of Common Ground with matters outstanding and is unsigned. The draft Statement of Common Ground has been drafted by the Applicant, but the stakeholder has not yet been able to complete their review in line with their governance process. The Applicant considers that this Statement of Common Ground presents an accurate description of the matters raised and the status of each matter, based on the engagement that has taken place to date.'

87 It is clear that there is a serious disagreement about the status of the draft SoCG, as was also true of the proposed draft SoCG with the ESSPSG, as set out in Sub Section X above.

88 Consequently, the Council contends that this process was developed too late by NH and did not allow the Council to scrutinise the NH Response to each issue, until after DCO submission. The Council has subsequently undertaken an outline review of this SoCG and concluded the following:

- a. The Council's issue/comment is only presented as a short precis, but the NH response is presented as a detailed rebuttal either disputing the position taken by the Council or a dilution by citing an array of DCO documents, meetings/briefings held, or bodies set up to address the issues;
- b. The status of many issues/comments is presented as agreed, not agreed or under discussion. The distinction is unclear and presents the status of the draft SoCG as more positive than the Council is willing to support; and,
- c. The Council will present its understanding of each issue and set out what is the remaining issue and what is necessary to address each issue, which should offer the ExA more clarity. This can be partially covered within the Council's PADs Summary.

89 The Council is also of the view that since DCO submission in October 2022 there has been very limited progress in discussing or resolving any of these outstanding and significant matters up until the Council's Section 114 notice was issued in late December 2022. As a consequence, **the Council does not agree to the current version of the draft SoCG.**

XII. Prematurity of the DCO submission, continual delays/refusal in the provision of technical data to the Council to analyse the LTC Scheme effectively and a Lack of Progress with the Section 106 Agreement

- 90 Prematurity – the Council considers that there is a serious issue of prematurity relating to the submission of this DCO application in late-October 2022. It believes that significant further work was needed to be completed in order to address the Council’s critical concerns expressed to NH over the past two years and yet despite this, the DCO submission was made.
- 91 Whilst much of this work was being progressed in 2022, critical information was not received until post-summer (and some was delayed by over 3-months on the original traffic modelling programme) or not until DCO submission. This left the Council with very little time to review and therefore adequately represent the views of its residents or as a technical authority in certain key matters. These are:
- a. The LTAM traffic modelling work by NH was delayed during 2022 and the Council only received the operational and construction cordon models in May and June 2022. This provided important inputs to other technical work and such technical reviews subsequently established that important aspects of the LTC design does not work. In addition, an important local VISSIM model was completed in late-summer 2022 that demonstrated that the strategic LTAM model is incorrect;
 - b. Detailed meetings were held throughout 2022 to discuss the development and use of the Orsett Cock Roundabout local traffic model and further meetings were planned to assess the traffic impacts of LTC on a number of other major junctions in Thurrock (A13 Manorway and the A1089 Asda Roundabout), potentially resulting in further mitigation, but these were never concluded and remain outstanding;
 - c. LTC confirmed in summer 2022 that assessment work for many topics within the ES and its Figures and Appendices (PINS Ref. Nos. APP-138 – APP-486) and all of the HEqIA and its Appendices (PINS Ref. Nos. APP-539 – APP-543) were still underway and may not be concluded until just before DCO submission in October 2022. As the conclusions were not available, it is contended that this assessment work (post DCO submission) may conclude that both further mitigation and scheme changes may be necessary to satisfy the assessment results; and,
 - d. Prior to DCO submission, it was expected/required that the LTC project needed to provide further provision and scheme changes to accommodate recent policy changes, especially regarding decarbonisation (in construction especially), air quality targets, active travel and public transport provision. Such changes are likely to need to be significant and therefore need further consultation.
- 92 Therefore, the Council contend that following further work/discussions there are very likely to be changes that may require additional consultation for the following significant matters: junction mitigation design changes, additional noise impact mitigation, changes to construction proposals and traffic routing mitigation, additional environmental mitigation, further health impact mitigation and additional provision for active travel/public transport provision.
- 93 Delays/Refusal in Provision of Technical Data – in the Council’s view there have been considerable delays or a refusal to provide critical information and data to the Council, despite many requests in writing over the past few years, both within formal consultations and within ongoing technical engagement. This lack of information/data has prevented the Council in performing its tasks as a technical authority. Consequently, the Council has been prevented from obtaining and adequate understanding of the scheme and therefore in its ability to undertake meaningful engagement with National Highways on a range of important technical matters, as would normally be expected. Through its action NH has prevented the Council from providing its residents with a full understanding of the project and its significant impacts.
- 94 The Council will demonstrate this with evidence within its LIR. It sets out below a number of examples of the information/data that has not been provided or has been delayed and emphasises

the critical nature of such information/data to perform both its functions as representing its community and acting as technical authority. The issues that most amply demonstrate this critical matter are:

- a. Provision of the Outline Business Case and in a timely fashion – initially requested in March 2022 and only provided in late-October 2022 after two NH refusals and an ICO decision to compel NH;
- b. Lack of and delayed traffic modelling information – no access to the full LTAM model granted by NH and updated cordon models not received until late-May and June 2022, with other technical support data not received until DCO submission; and the Orsett Cock Roundabout VISSIM model results originally requested in October 2021 and not concluded and received until just before DCO submission in late-September 2022 (over 10 months after commencement);
- c. Lack of updated and detailed air quality and noise assessments since DCOv1 in October 2020 – only received at DCO submission and only in pdf format and other detailed information requests still outstanding; and
- d. Lack of any real updates to the Health and Equalities Impact Assessment (HEqIA) or any understanding of their response to criticisms of its methodology, impacts or proposed mitigation. This assessment was only received at DCO submission and other detailed information requests are still outstanding.

95 Furthermore, there are many other instances where long-awaited technical information/data has been provided in bulk all at once often due to NH delays, coinciding the release of critical information with a formal consultation or just before the current DCO submission. For example, the results of the Orsett Cock local junction modelling were released all together, rather than in a phased manner as agreed, just a few weeks prior to DCO submission. These examples reduce the time available to resolve important technical issues deferring important matters to be considered during Examination and not within the Pre-Application or Pre-Examination stages of the DCO process as would be expected.

96 Section 106 Lack of Progress – there is substantial work to be completed on agreeing the Section 106 Heads of Terms and various side agreements still to be provided or to be negotiated. In summary, the Council issued its preliminary list of 38 potential measures in late-January 2022 and since then there have only been four technical meetings prior to DCO submission in February, April, June and August 2022. Our main concern is that to get to agreement on such matters will require considerable resource and enhanced speed of NH responses, now that these will be progressed during the Examination, when already stretched Council resources are under most pressure.

97 The draft Section 106 HoT (PINS Ref. No. APP-505) are just Skills, Education and Employment Strategy, the NH proposed Community Fund, Officer Support Contributions and Pedestrian Crossing Improvements south of the River Thames and were only received in early August 2022 and did not contain any elements originally requested by the Council in January 2022. They were then issued at DCO submission with minor additions, but none from those suggested by the Council. Despite the Council's list of potential measures and four meetings there has been no inclusion of any measures recommended by the Council.

98 The Council is extremely concerned that its views on two elements currently included within the Section 106 HoT have been largely ignored during the latter parts of 2021 and all of 2022 and these are briefly explained below but will be covered in more detail within the PADS Summary and LIR. These two matters are:

- a. Skills, Education and Employment Strategy (SEE Strategy) – since mid-2020 the Council has strongly recommended to NH that this Strategy be included within the DCO submission as a 'Control Document' to ensure its provisions and targets are adequately secured and hence followed by the subsequent main works contractors. This has been consistently refused by NH, preferring only to include limited parts of the Strategy within the Section 106 HoT.

The Council's detailed comments on the draft SEE Strategy were originally made in July 2020 and very few comments were subsequently accounted for by NH. Then NH issued updated versions of the SEE Strategy in August and November 2021. NH issued a response to all the Council's comments in June 2022 relating to the Group 3 issues within the then proposed draft SoCG.

To illustrate the Council's ongoing concerns with the SEE Strategy engagement and progress, an email of complaint was sent by the Council to NH on July 2022 regarding the lack of progress with dealing with Council comments and finalising the SEE Strategy. Subsequently, the Council issued its further detailed comments on the SEE Strategy and draft Section 106 HoT (just relating to this topic) in mid-September 2022 and NH responded in late-September 2022. This response largely rejected most of the Council's comments and subsequent technical discussions did not change the NH position, especially related to the securing status of the SEE Strategy and improving targets.

In conclusion, the Council contend that the SEE Strategy should be a Control Document and there should be considerable improvement in many of its key targets.

- b. Community Fund – NH commenced discussions on this topic with the Council and other relevant local authorities in January 2022. Subsequently there have been three technical meetings in January, May and June 2022, with the latter meeting being joint with all affected local authorities. Presentations were given and shared at each meeting by NH. The draft Section 106 HoT relating to this topic was originally shared in June 2022.

The Council initially communicated its concerns about the Community Fund to NH in June 2022. Summarised, these concerns related to the scale of the fund being too low in comparison with other major NSIP projects; the apportioning of the fund between local authorities is not correct or fair; community capacity building needs to be built into the operation of the Fund; and the eligibility criteria needs more detail, clarity and agreement.

Technical discussions continued about these concerns throughout the rest of 2022. This culminated in the Council submitting a jointly agreed Technical Paper (from Medway Council, LB Havering and Gravesham BC) about its concerns to NH on 24 November 2022, with a finally revised version being issued on 7 December 2022. NH's response was received in mid-March 2023 and will be considered by the Council and comments included within the LIR.

The collective position from these local authorities related to three matters: the scale of the Fund being inadequate, the need to change its apportionment between local authorities and the need for more agreed detail on the Fund's eligibility criteria.

- 99 The draft SoCG outstanding issues (relating to Planning statement/policy and other topics) will also be dealt with in more detail in the LIR, namely Item Nos. 2.1.1, 2.1.61, 2.1.117, 2.1.122, 2.1.143 – 2.1.153, 2.1.170 – 2.1.184, 2.1.187 – 2.1.189, 2.1.217, 2.1.228, 2.1.237 and 2.2.259, by providing the Council's case in answering the NH responses and setting out the key issues within its PADs Summary and LIR.

XIII. Thurrock Council-owned land and property effects is insufficiently compensated or covered with a suitable Legal Agreement

- 100 There are two significant outstanding matters with NH relating to land and compensation and these will be dealt with in turn below.

- 101 Side Legal Agreement – the Council has been engaging with NH during the second half of 2021 and all of 2022 to understand the effects on the Thurrock-owned land parcels by the LTC scheme (originally 174 parcels in September 2021 and now 142 parcels due to changes in the Order Limits). This resulted in a detailed table setting out for each parcel the reason for acquisition, type of acquisition, a map of the parcel and then the likely effects, timescales and purpose of its use by NH, subject to main contractor confirmation.

The latest table was finalised in August 2022. The purpose of the table was to understand the detailed effects on Thurrock-owned land, understanding that the information contained in the Statement of Reasons (SoR) within the DCO application (PINS Ref. No. APP-060) will be broad.

The Council requested in mid-2022 that this table be supported by an appropriate Side Legal Agreement to give the Council confidence in its detail, with any necessary qualifications included in the drafting. This Agreement is still awaited from NH, with the latest of several reminder requests being in December 2022. In that latest reminder request on 7 December 2022, there were also a number of other detailed, but important, technical queries relating to permanent acquisition, temporary occupation of public open space and disruption compensation. No response has been received yet from NH.

102 Compensation Concerns – in both the Community Impacts (summer 2021) and Local Refinement (spring 2022) Consultations the Council set out its concerns in detail. These concerns still apply as no changes have been made to NH compensation policies. These concerns can be summarised, as follows:

- a. The NH policy, *'Your property and compensation or mitigation for the effects of our road proposals'*, simply refers to and re-states legislation that provides LTC with options for mitigating scheme impact both to the environmental and to local residents. These largely standard statutory measures for local residents include options in respect of increased noise (including planting, noise insulation and noise payments), expenses for suitable temporary moves and off-line discretionary home purchase. The policies, in most cases, do not go further than the statutory position and provide limited comfort due to their discretionary nature and lack of specific details (including application process, response timeframe and support, etc.). Furthermore, no support is offered for local businesses or other property uses outside of residential.
- b. As a response to these inadequate NH policies, the Council has and still requires additional provisions for environmental mitigation, off-site planting agreements, noise insulation, noise payments for movable homes, additional expenses for moves into temporary accommodation and an off-line discretionary purchase scheme. These additional provisions could be included within the NH policy documents entitled *'Your Property and Blight'*, *'Your Property and Compensation or Mitigation for the Effects of Our Road Proposals'*, *'Your Property and Discretionary Purchase'* and *'Your Property and Compulsory Purchase'*. These NH policy documents are not currently included within the DCO application.
- c. Under Section 19 of the Acquisition of Land Act, 1981 – where the land to be acquired forms 'part of a common, open space or fuel or field garden allotment' an acquiring authority is, in all but a limited number of cases, required to provide replacement land to fulfil the function of the land acquired, such other land to be of no lesser area and no less advantageous. The Council contend that this requirement should apply both in respect of land permanently acquired and that acquired temporarily. Failure in either circumstance would leave the residents of Thurrock with less of this particular land type.

103 The Council will provide more detail with evidence and precedents on these above matters within the PADs Summary and LIR.

104 The draft SoCG outstanding issues (relating to a range of topics) will also be dealt with in more detail in the LIR, namely Item Nos. 2.1.1 – 2.1.56, 2.1.66, 2.1.80 – 2.1.83, 2.1.91 and 2.1.238, by providing the Council's case in answering the NH responses and setting out the key issues.

XIV. The draft DCO Order does not contain adequate provisions to protect the Council and its residents despite significant negotiations over two years

105 The Council originally issued its detailed comments to NH on the draft DCO (but not its Explanatory Memorandum) (PINS Ref. Nos. APP-056 and APP-057) itself in April 2021 and following this there were four very detailed exchanges between the Council and NH. The timings of these written responses was, as follows:

- a. Council's detailed comments late-April 2021 – NH response in late-June 2021;
- b. Council's further detailed comments mid-October 2021 – NH response in December 2021;
- c. Council further detailed comments February 2022 – NH response in April 2022; and,

- d. Joint Council/NH meeting in October 2022 to discuss outstanding issues following an exchange of correspondence between August – October 2022, followed by finally agreeing meeting notes in November 2022.

106 Whilst NH has responded positively and amended the draft DCO in a number of areas, there are still many unresolved and not agreed outstanding matters that are set out in the draft SoCG. Here we will summarise the five key areas of Council concern below (from the overall list of 56 issues) and a more detailed analysis of all the matters will be presented in both the PADs Summary and the LIR.

107 These five key matters can be summarised, as follows:

- a. Discharging Authority and Local Authority Consultation – NH are strongly of the view that the DCO requirements (currently set out in Schedule 2 of the draft DCO) should largely be discharged by the Secretary of State. It is the Council's position that Requirements 3 (detailed design), 4 (Construction and Handover EMPs), 5 (landscaping and ecology), 8 (surface and foul water drainage at a local level (with the Environment Agency responsible for those elements not at a local level), 10 (traffic management), 11 (construction travel plans), 12 (fencing) and 17 (amendments to approved details) should be discharged by the relevant local planning authority, with any appeal going to the Secretary of State. Whilst it is not uncommon for transport DCOs to have the Secretary of State as the discharging authority, it is by no means universal (there are at least four other transport DCOs where this is not the case). In addition, the Council are not aware of any other Secretary of State (for example DHLUC, DEFRA or BEIS) being the discharging authority in connection with non-transport DCOs. In relation to this scheme, the Council is the local highways authority for 70% of the route, with the remaining 30% being within LB Havering and Kent CC local highway authority areas. Accordingly, NH's concerns regarding co-ordinated discharge of functions is not well founded in relation to this LTC scheme.

In the Council's view, locally elected local authorities, who are experienced in discharging similar planning conditions, should be the discharging authority. It is precisely because of the complexity of the project that a detailed understanding of the locality, including the local highway network, is required. It is accepted that changes to local highway sections will need to consider the impact of those changes on trunk road sections (and vice versa), and accordingly it is suggested that the relevant planning authority will discharge requirements in consultation with relevant parties, such as NH and other key stakeholders. The current proposal, of the Secretary of State being the discharging authority, after consulting the Council, is likely to lead to unnecessary expenditure as the relevant local planning authority will have to commit significant resources to explaining to the Secretary of State the impact of proposals.

A number of the requirements (as currently drafted) refer to consultation with the relevant planning authority. There are no details in the draft DCO as to how long this consultation will be or how it will take place. However, it is understood from NH verbally that the consultation period will be four weeks, with the ability to extend to 6 weeks. Accordingly, the Council contends that the setting of 8-week discharge period for the Secretary of State and then only allowing only 4-6 weeks for consultation with local planning authorities is not appropriate or fair, as it does not take into account the complexities of the individual matters being discharged.

- b. Order Limits and Limits of Deviation (LoD) – Article 6(2) would offer the ability to carry out works outside of the Order Limits. Whilst this may be acceptable in a limited number of situations, the Limits of Deviation (LoD) need to be restricted to the Order Limits to provide sufficient certainty regarding the impact of the project. As currently proposed, where there are no materially new or materially different environmental effects there is in essence no Limit to the Deviation and land ownership is not covered. This means that issues such as visual impact especially impact on private land/access rights might not be properly considered. Therefore, NH should restrict the LoD to the Order Limits in the interests of certainty and to allow effective engagement with the local community. There are numerous examples in other NSIP projects where LoD's do not extend outside the Order Limits.

In addition, within Article 3(3) the Council is concerned that the precise impacts have not been considered and that having a blanket provision of 'adjoining or sharing a common boundary', where the specific impacts of different legislation have been disapplied have not been considered. This could lead to unexpected adverse impacts and there is insufficient clarity as to its meaning or application.

- c. Deemed Consent – the provisions on deemed consent (refer to Articles 12(8), 17(11), 19(8), 21(6) and Schedule 2 and 14), in particular the inability to agree extensions of time for consideration of requests for consent is a cause of concern for the Council. In the Council's opinion, the public interest and the interests of NH would be better served if there is the ability for the parties to mutually agree an extension of time (which should be capped at a default of 3 months, especially if there is disagreement). This would avoid unnecessary appeals and also avoid delay by having to refuse applications that could have been approved if a short extension could have been agreed.

Also, the provisions should be 'deemed refusal' rather than 'deemed consent'. This would continue to incentivise the Council to work within the specified timeframes but avoid the risk of decisions being deemed as having consent when they have not been considered by either the Secretary of State or the Council. This position is further strengthened by the fact that the Council's current financial situation may lead to reduced resourcing and therefore involve slightly longer response times. Therefore, the current proposed wording has the potential to unfairly impact the residents of Thurrock due to the Council's financial position.

- d. Temporary Possession – Article 35(2) requires NH to provide at least 28 days notice before entering and taking temporary possession of land. Article 36(3) requires NH to provide at least 28 days notice before entering and taking temporary possession of land. The Council contends that both these timeframes are far too short, especially if landowners need to make alternative arrangements for their business to continue to function. Accordingly, the period in articles 35(2) and 36(3) should be 3 months and NH should justify why the notice period cannot be for this longer period.

The Council recommends that the DCO Explanatory Memorandum (PINS Ref. No. APP-057) makes a commitment to: (a) outlining estimated timescales as accurately as possible to landowners when notices are given; and (b) keeping them updated as to evolving timescales. The Council fully anticipates that NH will be doing this in practice as a responsible public body but considers that there is considerable value to this being specifically set out within the draft Order and Explanatory Memorandum.

- e. Traffic Management Forum (TMF) – Article 9 and the oTMPfC (PINS Ref. No. APP-547) makes provision for the disapplication of various important provisions of the New Roads and Street Works Act (NRSWA) and the establishment of a TMF respectively. The Council contends that the disapplication will significantly impact its ability to coordinate street works effectively. If the Council is not in a position to effectively coordinate all works on its network, potentially for a construction period of 6 – 8 years, the risk of conflicting street works is increased, and the Council will then not be fulfilling its duty. Having two determining Street Authorities operating on the same section of network risks conflicting street works being approved, resulting in significant traffic disruption (and potentially significant economic, environmental, and social issues in the local area and restricting access to emergency vehicles).

In addition, Article 9(11) sets out that future orders by the SoS under NRSWA will not have effect on the authorised development (LTC) – the Council therefore questions the appropriateness or lawfulness of this provision, including its drafting.

Although the TMF may help resolve issues, there is still uncertainty regarding its set up and terms of reference, the detail of which has not been provided to the Council or discussed. The draft oTMPfC does not address how conflicts between NH and other developers would be managed, so as to avoid significant negative impact on the wider road network. In summary, the Council requires details of the TMF membership, structure, terms of reference and powers set out in the CoCP/REAC.

108 The draft SoCG 56 outstanding issues (relating to DCO and Consents and other related topics) will also be dealt with in more detail in the LIR, namely Item Nos. 2.1.1 – 2.1.56, 2.1.124 -2.1.125, 2.1.134 – 2.1.136, 2.1.138 and 2.1.164, by providing the Council's case in answering the NH responses and setting out the key issues within its PADs Summary and LIR.

XV. Inadequate Legacy Provision, particularly for Highway Improvements, Skills and Employment, PRowS and other elements of the Hatch Mitigation Measures Report (dated February 2021)

109 The Council is very concerned about the paucity of 'legacy' measures included by NH within the DCO application, which largely seeks to include only the required 'embedded mitigation' with some 'enhanced mitigation'. In a project of this size and complexity (the largest DCO under consideration in the UK), it would be usual practice to include a range of additional legacy measures to further offset the significant effects of such an impactful project on local communities. Despite the Council's detailed technical engagement concerning all aspects of legacy over the last two years, (since the previous DCO was submitted and then withdrawn in November 2020), very little progress has been made. The brief history of technical engagement on legacy matters is summarised below. Then we set out the legacy measures that the Council would require to be covered either within the DCO or as part of a separate Section 106 Agreement or other side legal agreement.

110 The Council issued the full Hatch Report '*LTC Mitigation Benefits*' to the then Highways England in mid-November 2020, informally. The Council then formally published the Hatch report on its website on 24 February 2021. The NH initial response was that the report was useful and helpful. It contained 57 measures that the Council wants to see NH action – 23 direct mitigation measures, 12 measures of Council-led support and 23 measures of legacy. One further measure was added in subsequent dialogue with the then HE, making 58 measures in total.

111 Technical meetings between NH and Council officers/consultants began in December 2020 and continued until late-November 2022. These meetings have been helpful in explaining to NH the detailed thinking behind each measure, determine if further information was required from the Council and to discuss how best for, NH to satisfy each measure. Since December 2020 there have now been 37 lengthy meetings, each recorded within a detailed table of progress.

112 Thus far, very few of the 58 measures have been agreed. The number of technically agreed measures is 16, but these are still subject to subsequent Council Members approval – although the Council has offered Council Members regular updates on progress offering a RAG progress on each measure. The reasons for this long delay, in the Council's view, is the need to continually and repeatedly explain each measure in increasing detail to NH, answer seemingly never-ending follow-up questions from NH and a resistance from NH to resolve the Council's requests, despite the regular tracking of each measure and the agreed consequent actions.

113 There are some 24 measures where NH has either declined to provide what has been requested or which are very unlikely to be provided despite senior political involvement and other pressures/influence. These measures have remained unsuccessful after almost two years of negotiations and seem unlikely to move forward at present.

114 There are, therefore, some 30 measures that have the potential to be technically agreed but await either further information, further technical discussions, or a changed NH position, now after two years of engagement. These measures are those that the Council require to be included in an acceptable form within the DCO or through separate legal agreements and are, as follows:

- a. M4 – install sensors to monitor air quality and noise, with required actions if target limits are exceeded.
- b. M8 and M9 – use the construction phase as an opportunity to trial innovative forms of public transport measures and enable active travel to construction sites.
- c. M10 – the use of marine transport for the movement of materials (this is discussed further in Sub Section V above).

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- d. M19 and M20 – Orsett Cock Roundabout and Manorway Roundabout Mitigation. Additional mitigation to overcome the negative impacts of the LTC project on the A128 approach to the Orsett Cock junction; and, an additional lane on the A1013 and A1013 approaches to Manorway Roundabout to ensure portland local traffic movements are not impaired by the LTC.
 - e. M21, M22 and M23 – traffic management measures in Orsett, Horndon and Chadwell: mitigation for additional traffic movements on local roads through local settlements, including HGV movements.
 - f. CLS 1, CLS8 and CLS12 – financial contribution from NH to Thurrock to help the Council to manage impacts/scrutiny of LTC delivery:
 - Council-led Local Labour and Business Team;
 - Council-led Community and Public Health Team;
 - Support to enable community engagement during the construction of the LTC scheme;
 - Transport Network Management and Development Resource.
 - g. CLS3 – establish clear and more ambitious targets for engaging local labour and apprentices during the construction of the LTC scheme.
 - h. CLS4 – grants to support voluntary and community organisations who are helping local people into employment.
 - i. CLS5 – ensure LTC procurement meets with requirements of the Council commissioning, procurement and grant funding strategy.
 - j. CLS9 – public health mitigation during construction.
 - k. CLS11 – capital grants to facilitate aesthetic and environmental improvements within the community.
 - l. L2 – A13 East Facing Access Support and Facilitation.
 - m. L4 – Asda Roundabout Enhancement – requirement for enhancements should be actively examined alongside the delivery of other highway improvements.
 - n. L5 – recognise the long-term aspiration for the LTC to be utilised for cross-river public transport connections.
 - o. L6 – maximise opportunities to utilise the construction of the LTC to enable future distributor roads to be more readily delivered.
 - p. L7 – construct a permanent bridge over the Tilbury Loop railway line near East Tilbury to a width and standard that would enable it to be adopted as part of the future local highway, walking, cycling and horse-riding network.
 - q. L8 – deliver the proposed construction haul road along Medebridge Road alignment from the A13 to Grangewater to a sufficient width and standard to enable it to be adopted by the Council.
 - r. L9 – Daneholes Roundabout Enhancement.
 - s. L12 – ensuring that the proposed re-provision of bridges across the LTC, along existing corridors, deliver sufficient legacy provision to encourage active sustainable travel/support future growth.
 - t. L13 – Two Forts Way Project (TFWP).
 - u. L16 – Coalhouse Fort and East Tilbury Natural and Cultural Heritage Area Project.
 - v. L18 – support and facilitate the collaborative partnership of organisations seeking to deliver the restoration of the site at East Tilbury Landfill.
 - w. L22 – additional street tree planting initiatives and the delivery of LTC Forest aspirations.
 - x. L23 – A13 Trunking from Stanford-le-Hope and Manorway Roundabout and part of A1013 to A13 Junction with A1089.

Some of the above measures are in partial discussions but still require finalisation yet are not currently included within the draft Section 106 HoT. It is recognised that some of the remaining measures, not covered here, are outside of the DCO scope, but are presented here for completeness – these are L2, L7, L16 and L23, as outlined above.

115 The draft SoCG outstanding issues (relating to a range of topics) will also be dealt with in more detail in the LIR, namely Item Nos.2.1.57, 2.1.105 – 2.1.106, 2.1.125, 2.1.128, 2.1.164, 2.1.170 – 2.1.184, 2.1.203 – 204, 2.1.245 – 2.1.255, 2.1.258 – 2.1.259, 2.1.260 – 2.1.262, 2.1.269 and 2.1.275 – 2.1.285, by providing the Council's case in answering the NH responses and setting out the key issues.

Conclusions

116 In view of the 7 LTC Scheme Objectives, the Council has significant concerns that the current project fails to meet those objectives. In addition, it will have significant negative impacts on growth, current residents and the environment.

117 The Council, in setting out its outline of case covering the 15 key matters set out above has, at the end of each sub section, outlined the corresponding matters within the draft SoCG in order to assist the ExA. This is notwithstanding the critique of the SoCG process set out in Sub Section XI above. Nevertheless, not all draft SoCG matters are referred to in these paragraphs as there are a number that do not neatly fall into the 15 sub sections above. Therefore, we have set these out separately below for convenience. This may subsequently help in subsequent submissions of the PADs Summary and LIR.

118 The draft SoCG measures not covered in the foregoing sub sections include 2.1.133, 2.1.142, 2.1.169, 2.1.185 – 2.1.186, 2.1.191 – 2.1.192, 2.1.199 – 2.1.202, 2.1.205, 2.1.238, 2.1.241 – 2.1.242, 2.1.263 and 2.1.272 – 2.1.274. For clarity, the Council consider that each of these issues are equally important as those set out above, but just do not fit into the 15 categories that have been used to structure this RR. In summary, these issues cover the following topics:

- a. Impacts on public transport;
- b. Maintenance of the Public Rights of Way (PRoW) infrastructure;
- c. Wider Socio-Economic impacts;
- d. Need for a Scoping Opinion and inclusion of a Transport Chapter in the ES;
- e. Designation of a Scheduled Monument and primacy of NPSNN over DMRB;
- f. Impact on the Landscape Character;
- g. Commitment to Biodiversity Net Gain (BNG) and other Specific Queries;
- h. Construction waste elimination and mitigation;
- i. Comments on draft oSWMP;
- j. Impact of possession of common land and private recreational facilities;
- k. Completion and improvement of PRoW network within and outside Order Limits;
- l. Potential legacy improvement in Baker Street;
- m. Future responsibilities of sea defences at Coalhouse Point;
- n. Nitrogen Deposition – assessment and methodology and DCO Requirement; and
- o. Work on flood defences.