

Development Management Committee: 23rd February 2022

Item 7 HW/CRB/19/00220

Central Stort River Crossing – Land Adjacent to Fifth Avenue Existing Eastwick Crossing Hertfordshire/Harlow

East Hertfordshire Development Management Committee – 22nd February 2022

The East Hertfordshire Development Management Committee resolved to grant application 3/19/1046/FUL on 22nd February 2022.

Officer's comment: EHDC Application 3/19/1046/FUL forms a duplicate submission to HDC Application HW/CRB/19/00220. The East Herts Development Management Committee decision covers the extent of the proposed development within the East Herts administrative area only. The Harlow Development Management Committee shall be responsible for determining the extent of the proposed development within Harlow administrative area only. In light of the resolution to grant application 3/19/1046/FUL by East Hertfordshire Development Management Committee Officer Recommendation 2 is no longer considered necessary and may be removed.

East Hertfordshire Development Management Committee approved the Officer recommendation subject to an amendment to Condition 11, this condition now reads as set out below with additional text added to the end of the first paragraph of the condition as follows ***“The Design Brief shall include details of an engagement strategy identifying how the design shall be informed through engagement.”***

11. Pedestrian/ Cycle Bridges (Eastwick Road and Stort Navigation) (Detailed design)

Prior to the commencement of the phase or sub-phase of the development (save for Enabling Works) related to the pedestrian and cycle bridges over Eastwick Road and over the Stort Navigation (as defined in plans and details approved pursuant to Condition 5), a Design Brief shall be submitted to and

approved in writing by the Local Planning Authority. The Design Brief shall set out the basis upon which the design of the bridges will be determined and shall have regard to inclusive design, the safety and needs of diverse and / or vulnerable users of the Pedestrian/ Cycle Bridges. The Design Brief shall include details of an engagement strategy identifying how the design shall be informed through engagement.

Prior to the construction of the pedestrian and cycle bridges over Eastwick Road and over the Stort Navigation (save for Enabling Works) (as defined in plans and details approved pursuant to Condition 5), full details shall be submitted to and approved in writing by the Local Planning Authority.

The submitted details shall have regard to inclusive design, the safety and needs of diverse and / or vulnerable users of the Pedestrian/ Cycle Bridges, and shall include as a minimum:

- a) Full elevation drawings and cross sections to demonstrate the scale and layout of the bridge, including gradients
- b) Details of materials and appearance
- c) Details of structures including fencing, chicanes, seating, signage
- d) Hard and soft landscaping proposals, including measures to ensure a satisfactory boundary relationship between the Stort Navigation Pedestrian and Cycle Bridge and adjacent land uses to the east of the bridge
- e) Details of lighting
- f) Details of how innovative, sustainable design solutions have been incorporated
- g) Details of how sustainable construction methods and materials have been incorporated
- h) Demonstration of compliance with approved parameters pursuant to Condition 2 (VD17516-CC-121-CoMP P03, VD17516-CC-121.1-COMP P03 and CSC Footbridge Design Parameters Revision C)
- i) A maintenance strategy in relation to the above.

The construction of the pedestrian and cycle bridge over Eastwick Road and over the Stort Navigation shall be carried out in accordance with the approved details and shall be practically completed and open to the public within six months of the completion of the full Central Stort Crossing.

Reason: To allow for approval of the details of this part of the development, as the detailed design of the bridge is not included in approved application drawings and to ensure the delivery of a high quality sustainable design solution for the crossing that supports sustainable travel and both compliments and avoids adverse impacts on the character and appearance of the River Stort and the use of its towpath. This is in accordance with policies CC1 'Climate Change Adaptation', CC2 'Climate Change Mitigation', TRA2 'Safe and Suitable Highway Access Arrangements and Mitigation' and DES4 'Design of Development' of the East Herts District Plan (2018) and Policies PL1 'Design Principles for Development', PL2 'Amenity Principles for Development', Policy PL3 'Sustainable Design, Construction and Energy Usage', SIR2 'Enhancing Key Gateways' and IN2 'Impact of Development on the Highways Network including Access and Servicing' of the Harlow Local Development Plan (2020).

Officer's comments: It is considered that the amendment is acceptable to Harlow Council and the amended Condition 11, as set out above, should be agreed through the recommendation.

Consultations

Summary of additional representations and updates received after completion of reports submitted to the committee, but received by 1pm on the date of the meeting.

Members are advised that the representations submitted contain comments that are generic or relevant to both Crossing applications, the below table has therefore been duplicated in relation to both items 7 and 8: Central Stort Crossing (CSC) (Harlow reference: HW/CRB/19/00220 East Herts reference: 3/19/1046/FUL) and Eastern Stort Crossing (ESC) (Harlow reference: HW/CRB/19/00221 East Herts reference 3/19/1051/FUL). Where comments within representations are only related to one particular application they are listed in the table below under the relevant application and agenda item.

	Agenda No	Summary of representations/amendments	Officer comments
1.	7 HW/CRB/19/002	Additional representations received: Hunsdon Eastwick and Gilston Neighbourhood Plan Group	As explained in the officer report the HIG funding is not a material consideration. Any Viability Assessment (or reassessment) and implications for mitigation and infrastructure requirements will need to be considered as part of the outline housing

	<p>20 and 8 HW/CRB/19/002 21</p>	<ul style="list-style-type: none"> - Cost of crossings is greater than HIG funding. Additional costs of crossings will increase cost of homes and reduce funding for necessary infrastructure - Applications should not be approved until outcome of viability assessment is known. 	<p>scheme for Villages 1-6. (The term ` infrastructure requirements is used in its broad sense here and is not limited to transport infrastructure). It must be borne in mind that viability considerations arise in connection with affordable housing policy requirements and may therefore be relevant to the outline housing application. The Crossing schemes do not attract any section 106 obligations / contributions.</p>
<p>2.</p>		<ul style="list-style-type: none"> - Applicant required to deliver strategic infrastructure with huge financial risks and will rely on contributions from other sites making delivery of housing uncertain. - Costs of major infrastructure will escalate with detailed design. Detailed flood modelling has not been undertaken, CPO and mitigation costs are uncertain and design of pedestrian/cycle bridge not yet known. 	<p>The Councils can only consider the planning merits of the Crossings applications before them. Land assembly and deliverability concerns, including the need for or the prospects of exercising compulsory purchase powers are distinct from the planning merits and are not matters for the development management committees. Such decisions would be subject to further decisions by the Council and, if CPO powers are exercised, or by the Secretary of State (where relevant).</p> <p>- Detailed flood modelling has been undertaken, it has been agreed by the Environment Agency and Lead Local Flood Authority and will be validated through technical design approval controlled by condition.</p>
<p>3.</p>		<ul style="list-style-type: none"> - Scale and design of roads compromise achievement of Garden City Principles including the sustainable transport targets. - Roads will be used by HGVs making it impossible to deliver villages in the 	<ul style="list-style-type: none"> - The approach to transport modelling is not based on a `predict and provide` approach which assumes all residents will wish to drive and is based on planning for capacity to meet such demand, without addressing the root causes of congestion. The transport modelling approach in respect of the Crossings is based on current best practice and 'vision and validate' principles, which means that the vision and targets are set to determine what is needed to sustainably meet future needs and all aspects of transport schemes are planned to meet those targets (e.g. the mode shift). At the

	<p>countryside.</p> <p>- Growth of retail in Edinburgh Way will attract more journeys.</p>	<p>core of the infrastructure planning for the Crossings is the creation of Sustainable Transport Corridors to achieve active and sustainable mode share targets. The two Crossings work together, as comprehensive infrastructure with each performing a complementary function with the other in order to achieve key policy objectives and support planned growth. The CSC provides the sustainable transport connection between the Gilston Area site allocated for 10,000 homes and the urban area of Harlow and the ESC provides the capacity required to serve the allocated site and provide alleviation to key routes within the centre of Harlow facilitating the delivery of a wider Sustainable Transport Corridor (to be delivered by Essex County Council) that will serve not only new HGGT communities but existing residents and employment areas in Harlow.</p> <p>- HGVs already use the A414 and Eastwick Road which runs past Terlings Park and through the hamlet of Pye Corner. This situation will improve.</p> <p>- Changes in urban area of Harlow are beyond the remit of the Crossings applications and therefore not relevant.</p>
4.	Images provided from Applicant's Design and Access Statement	These images are illustrative only, provided as examples only; they do not represent final design.
5.	Cross section images provided – scale of roads are too big.	Sections show that instead of roads being placed on the top of ridgelines which would be very prominent, they are cut into the landscape to reduce their visual impact.
6.	Road width and roundabout size images – scale of roads are too big.	The roads and roundabouts have been designed to meet necessary design/engineering standards.
7.	<p>- Alternative Option 1: only approve Central Stort Crossing.</p> <p>- Alternative Option 2: redesign the two</p>	The two Crossings applications are before members for determination now; Local Plan policies identify the need for the Crossings infrastructure and the two applications (albeit submitted separately) are a comprehensive transport scheme, each without the other would not facilitate the achievement of key policy objectives including

		<p>crossing to serve only the Gilston Area – wider needs of Harlow not the responsibility of the Gilston Area.</p> <ul style="list-style-type: none"> - Alternative Option 3: accept Eastern Stort Crossing is a strategic road and be public sector led with clear objectives and cost benefit analysis. - Alternative Option 4: Use HIG funding flexibly to divert funds to delivery of sustainable transport measures. 	<p>sustainable transport, mode share targets and enabling planned growth in accordance with the Councils Local Plans. At the core of the infrastructure planning is the creation of Sustainable Transport Corridors to achieve active and sustainable mode share targets. The two Crossings work together, each performing a complementary function with the other as part of a comprehensive infrastructure strategy in order to achieve key policy objectives and support planned growth. The CSC provides the sustainable transport connection between the Gilston Area site allocated for 10,000 homes and the urban area of Harlow and the ESC provides the capacity required to serve the allocated site and provide alleviation to key routes within the centre of Harlow facilitating the delivery of a wider Sustainable Transport Corridor (to be delivered by Essex County Council) that will serve not only new HGGT communities but existing residents and employment areas in Harlow.</p> <ul style="list-style-type: none"> - Alternatives have been considered as part of the report at Section 13.7 in the context of heritage impacts assessment. - If public sector-led then the public sector bears all costs and risks. - HIG funding is not a material consideration for these applications and the report offers clear guidance to members in this regard.
8.		<p>Benefits of roads do not outweigh the harms, the most balanced solution has not been achieved and community not consulted on these options.</p>	<ul style="list-style-type: none"> - It is the recommendation of Officers that the benefits of the Crossings schemes do outweigh the harms in both heritage terms and Green Belt terms. Officers recognise that great weight must be given to the harm to heritage assets and consider that there are substantial public benefits that can be weighed against the less than substantial harm to the significance of listed buildings being Fiddler’s Brook Bridge and Fiddlers Cottage. Officers consider that there are very special circumstances that outweigh the harm to the openness of the Green Belt. These matters and harms are considered in detail in Sections 13.7 and 13.8 of the Officer Report. - Sections 13.1 and 13.3 of the Officer Report consider the principle of the

			<p>applications as they are submitted. Full and comprehensive consultation has occurred on the applications as they stand and also during the Plan-making stage of the East Herts District Plan in which Policy GA1 and GA2 were adopted following the Examination in Public, at which community representatives were in attendance and were heard by the Inspector.</p>
9.		<p>Applications have not been assessed against the Neighbourhood Plan policies.</p>	<p>This is inaccurate. The Officer Report clearly considers each development plan policy throughout. Appendix B to the report already sets out Officer's responses to the Neighbourhood Plan Group's representations.</p>
10.		<p>LVIA is flawed.</p>	<p>Officers considered the content of the LVIA and carried out site visits of their own to make their reasoned judgements. The submitted LVIA has also been assessed independently by consultants Barton Willmore and the Council's Landscape Adviser. The LVIA submitted is considered sufficient to inform the judgement of officers. It contained clear summary of relevant policies, description of the methodology and baseline conditions at the Site and surroundings. The study area was appropriate, the methodology for assessment of landscape and visual effects included consideration of the Zone of Theoretical Visibility and was assessed against the Guidelines for Landscape and Visual Impact Assessment Third Edition. Criteria for judgements as to susceptibility, value and magnitude of effects were clearly defined such as to enable appropriate judgements on sensitivity. It is noted that sometimes assessments of landscape and visual effects can have a degree of subjectivity. Hence, officers took care to carry out site visits, to scrutinise the LVIA's conclusions and formulate their own judgements as to landscape and visual impacts. Section 13.2 of the Officer Report considers that the Officers do not agree with all the conclusions of the LVIA in terms of the sensitivity of the Stort Valley, and have therefore assessed the impacts based on a higher level of sensitivity. The Reports acknowledge the visual impact of the Crossings infrastructure and consider that the proposed mitigation, secured by condition 33 (CSC) and 32 (ESC) will reduce these impacts, and that there are</p>

			overriding benefits arising from the two schemes that outweigh these residual harms.
11.		Viability of the scheme is questioned.	Viability data and deliverability of the Crossings is not relevant to the consideration of the planning merits. In terms of planning decisions, viability is relevant in assessing affordable housing delivery against policy requirements, which is not the remit of the Crossing applications. However, deliverability would be relevant to and scrutinised in relation to the exercise of any CPO powers.
12.		Conflict with Neighbourhood Plan policies	Officers have set out responses to the Neighbourhood Plan Group's appraisal of the scheme against the policies in Appendix B to the Reports and indeed throughout both Officer Reports. It is acknowledged that there is a difference of opinion with the NPG's representations based on the professional judgement of Officers, and taking into account ALL the relevant Development Plan policies of the East Herts District Plan, Harlow Local Development Plan and Neighbourhood Plan, plus material considerations in the form of HGGT documents. The latter primarily include the Vision, Transport Strategy and Infrastructure Delivery Plan all of them, alongside the Development Plans, identify the two Crossings as being essential infrastructure to serve not only the Gilston Area developments but the wider allocated growth of the HGGT. These relevant HGGT documents have been endorsed by both District Councils as relevant material considerations subject to case by case assessment.
	Agenda No	Summary of representations/amendments	Officer comments
13.	7 HW/CRB/19/002 20 and	Additional Representations received: Hunsdon House Applications should be considered alongside the Outline application to make balanced decision on overall benefits and harms. To determine Crossing in advance	The Crossings are planning applications in their own right that are ready for determination on their own merits. Appendix B has already addressed this point. The Outline applications are not for determination at this committee. Nonetheless, for context and clarity both the Villages 1-6 and Village 7 applications have been submitted in Outline form with all matters reserved except for access. The Outline applications are supported by detailed parameter plans and Development

	<p>8 HW/CRB/19/002 21</p>	<p>of Outline means there is a risk of pre-determination.</p> <p>Officer's suggestion that conditions can be placed on the Outline application that prevents development unless changes are made to the crossings or to control the design of Outline to avoid need to change Crossings implies pre-determination.</p>	<p>Specifications providing detail in relation to how the developments are proposed to come forward. The Outline applications will come before Members later this year and will be considered on their own merits; conditions will be recommended as necessary and many matters requiring mitigation will also be subject to detailed Section 106 obligations in due course. Until the LPA has determined the Outline applications, it will not have determined that the proposals are acceptable or fettered its discretion in any way. For example, it is open to the development management committee considering the outline applications to conclude that, regardless of the principle of housing development being established by virtue of the Gilston Area allocation that they will give great weight to specified harms from the developments, and reach an objective view as to the outcome. In short, after careful consideration and appropriate advice, officers are of the view that determining the Crossings does not fetter the Councils' discretion as to any decisions to be made in respect of the Outline application/s.</p>
<p>14.</p>		<p>LVIA conclusions are based on a flawed methodology. The Council's Landscape Officer raised concerns about the Landscape and Visual Impact Assessment (LVIA) and in 2019 Barton Willmore agreed that the ES did not set out an assessment structure to inform decision making. Requests for more information were not met. Disagree with the 2021 assessment by Barton Willmore.</p>	<p>Since concerns were raised in 2019 the Applicant submitted amendments to the applications in November 2020. The Landscape Officer raised some initial concerns to which further amended plans and information were submitted. The Landscape Officer agreed that the revised information was adequate and suggested a number of condition requirements to confirm the proposals through the detailed engineering stage. Barton Willmore considered the revised ES and considered that information is indeed sufficient upon which to make a decision:</p> <p><i>The scope of Chapter 13, including the established study area, appears appropriate and proportionate to the scale of the development. The methodology for the production of the Zone of Theoretical Visibility (ZTV) is clear and concise. The methodology for the assessment of landscape and visual effects is described as being based on the guidance set out within the Guidelines for Landscape and Visual Impact Assessment Third Edition (GLVIA).</i></p> <p><i>10.4 The methodology for assessment of landscape and visual effects has been clearly</i></p>

separated. The criteria for judging susceptibility and value is transparent, which leads to a clearly determined judgements on sensitivity. Similarly, judgements on the magnitude of effects are also simply and clearly defined. This approach is considered appropriate and based on the guidance within the GLVIA.

10.5 Sensitivity and magnitude are combined to provide an overall level of significance for each effect, which again is consistent with the GLVIA, while a helpful definition for each effect is provided in Table 13.10.

10.9 Naturally, as is the case with the assessment of landscape and visual effects, there is scope for subjective opinion in the reasoning and assessment of the impacts that such a scheme would have on its context. However, crucially there are no obvious or glaring omissions, or standout poorly substantiated judgements in relation to the magnitude of effects likely to be experienced, and by extension the significance of effects reported.

10.10 Differentiation of where mitigation is embedded in the scheme design (primary mitigation, as detailed through the Parameter Plans) and where additional mitigation (secondary mitigation) is required is set out clearly in Chapter 13, with the detail proposed to be delivered and secured through the form of the Village Masterplans, the Landscape Masterplan and Reserved Matters Applications. The level and nature of secondary mitigation proposed is considered acceptable and appropriate given the outline nature of the application, while the embedded mitigation is clearly understood (including that associated with the detailed infrastructure applications).

10.11 Monitoring of the effectiveness of the landscape enhancements and new planting is proposed to be agreed with the regulatory authorities, alongside the delivery of Landscape Management Plans and Maintenance Schedules as a means to deliver the landscape works in an appropriate manner. The level of description at this stage is sufficient.

Notwithstanding the above, Officers considered the content of the LVIA and carried out site visits of their own to make their reasoned judgements. The submitted LVIA has also been assessed independently by consultants Barton Willmore and the Council's Landscape Adviser. The LVIA submitted is considered sufficient to inform the judgement of Officers. It contained clear summary of relevant policies, description of the methodology and baseline conditions at the Site and surroundings.

			<p>The study area was appropriate, the methodology for assessment of landscape and visual effects included consideration of the Zone of Theoretical Visibility and was assessed against the Guidelines for Landscape and Visual Impact Assessment Third Edition. Criteria for judgements as to susceptibility, value and magnitude of effects were clearly defined such as to enable appropriate judgements on sensitivity. It is noted that sometimes assessments of landscape and visual effects can have a degree of subjectivity. Hence, officers took care to carry out site visits, to scrutinise the LVIA's conclusions and formulate their own judgements as to landscape and visual impacts. Section 13.2 of the Officer Report states that the Officers do not agree with all the conclusions of the LVIA in terms of the sensitivity of the Stort Valley, and have assessed the impacts based on a higher level of sensitivity. The Reports acknowledge the visual impact of the infrastructure and consider that the proposed mitigation, secured by condition will reduce these impacts, and that there are over riding benefits arising from the two schemes that outweigh these residual harms.</p>
15.		<p>Regarding LVIA judgements the public are expected to take the word of Officers that they have considered the effects on the landscape according to a higher value of sensitivity.</p>	<p>Officers consider the content of the LVIA and carry out site visits of their own to make their reasoned judgements.</p> <p>Officers are bound by the code of professional ethics governing the Planning profession and are required to make professional judgements based on relevant policies of the Development Plans and all material considerations. All conclusions and recommendations in planning reports are based on the professional judgement of Officers, as they must make appropriate recommendations to Members who are democratically elected to represent their community and as members of Development Management Committee to make objective judgements as to planning merits. To assert or imply that Officers' opinions cannot to be trusted or are somehow misleading or that the Committee cannot following debate formulate its own judgements in an objective manner runs the risk of undercutting this democratic process. In short, this representation is not based on planning merits, but rather seeks to substitute an alternative judgement for that of the Officers advising, whereas the courts recognise</p>

			professional judgement is for officers and for decision makers.
16.		LVIA does not account for impacts during construction.	The impacts of construction are considered throughout the Officer's Reports, and the harms are acknowledged and weighed in the balance bearing in mind the temporary nature of construction impacts suitable and effective mitigation measures are secured through conditions attached to the recommendations for grant connected with the applications.
17.		LVIA does not take into account the impacts of lighting design. Leaving this to condition means there has been no public scrutiny on the design impacts.	An assessment of the impact of lighting is included in the ES, including consideration of baseline environmental lighting zones and their night time environment. The visual and environmental impacts of lighting are considered in the Officer's Reports in Section 13.2 and 13.6 respectively. Sufficient information has been provided as to the potential impacts of lighting to inform Officer judgement and the detail of the lighting strategy is secured via conditions 12 (CSC) and 11 (ESC), which will involve careful consideration and balance of meeting highway safety, safety in general terms for diverse and vulnerable user requirements and environmental considerations. It is standard practice to condition lighting strategies as the detailed engineering design stage may require amendments to lighting schemes.
18.		Green Belt assessment is flawed because it relies on a flawed LVIA.	The assessment of whether an application has an impact on openness in the Green Belt is a different assessment to whether there is an impact in landscape and visual impact terms. A scheme can have an impact on landscape and have a visual impact without harming the openness of the Green Belt and vice versa. In fact the Officer's Reports conclude that there are impacts on openness in the Green Belt and that there are harms in landscape and visual impact terms. There are very special circumstances and significant benefits that outweigh the harm to the Green Belt by reason of inappropriate development and any other harms / impacts. This view is based on a careful application of and assessment against relevant Green Belt policies in the NPPF and Local Plan, and upon the professional judgement of officers taking

			account of the ES, site visits, their experience and other material considerations.
19.		Proposals are likely to be in conflict with Green Wedge Policy PL5 of the Harlow Local Development Plan, and are in conflict with Policy DES2 Landscape Character of the East Herts District Plan and Neighbourhood Plan policy AG1 Promoting Sustainable development.	These policies are considered in the Officer's Reports. The planning balance required must have regard to and apply the Development Plan Policies as a whole and consider schemes in terms of overall compliance with the Development Plan. In other words, applications are not judged solely against an individual policy or a part of such a policy. The legislative requirement is to have regard to relevant policies of the Development Plan and any other material considerations. The Reports note in Sections 13.1 that the Crossings are allocated as essential pieces of infrastructure necessary to deliver the development strategies of the East Herts and Harlow Development Plans and the Neighbourhood Plan is written to be in general conformity with the East Herts District Plan. Sections 13.1, 13.2 and 13.8 of the CSC Report considers the impact of the Crossing on the Green Wedge policy, as the proposed pedestrian and cycle bridge over Eastwick Road and the Stort Navigation are proposed immediately to the east of the existing Fifth Avenue Crossing.
20.		Members are asked to consider the benefits of the Gilston housing applications, they should also consider the totality of the harm and this can only be done by determining all the applications together. This is relevant in Green Belt terms as the NPPF says: "very special circumstances will not exist unless the potential harm to the Green Belt ... and any other harm resulting from the proposal is clearly outweighed by other considerations."	With or without the Outline applications, the Crossings are proposed in response to an identified policy requirements set out in two Local Plans, the HGGT Vision and their respective Infrastructure Delivery Plans. Applications made in response to Policy GA1 will need to meet the policy requirements, which include the need to provide appropriate mitigation as necessary. The examination process into the District Plan which culminated in the Gilston Area allocation for 10,000 homes included assessments of harm, in particular, environmental assessments, transport modelling and heritage impact assessments. The allocation in the adopted Plan therefore accepts in principle that some of the harms identified through the examination are either acceptable or can be mitigated through appropriate policy requirements and specific mitigation to be assessed on a scheme by scheme basis. It is the professional opinion of officers that the East Herts District Plan Policy GA1 allocation for 10,000 homes in the Gilston Area is capable of providing Very Special Circumstances on its own, even in the absence of any submitted outline application for 8,500 homes in

Villages 1-6. The fact of an existing application linked to the Crossings via Condition 4 gives greater confidence of these benefits materialising. The Councils are entitled as a matter of law and policy to factor in these benefits as part of the very special circumstances assessment. This does not impede an objective consideration of the Outline application on its own merits when it is due to be determined course.

- In accordance with legal requirements, the environmental and habitats impacts have been considered for the Crossings and Villages 1-6 Outline application as a 'single project' and in-combination/cumulatively with other projects, i.e. in the Environmental Statement and the Habitats Regulations Assessment (together with the Update). By virtue of Planning Practice Guidance and legislative provisions for the non-determination of applications, LPAs are required to determine planning applications promptly on their own merits. There is no further obligation on the LPAs or any impediment to assessing the Crossings and Outline applications on their respective planning merits. Proceeding in this manner is consistent with law and relevant planning policies; it is therefore both rational and reasonable to proceed to make the Crossings decisions.

As the comment says, the NPPF states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm **resulting from the proposal**, is clearly outweighed by other considerations. Each Crossing proposal has specific harms arising from that proposal that are acknowledged and mitigated as necessary. The LPAs are entitled to consider the benefits of the policy allocations for 10,000 homes and wider growth. The fact that there are extant Outline applications and the Crossings applications are linked in EIA terms to the Villages 1-6 Outline application for 8,500 homes (85% of the total site allocation) gives greater confidence that the benefits justifying the harm will be forthcoming. Condition 4 is a mechanism which ensures that harm does not arise from the crossings unless the outline is also granted permission.

21.		<p>The transport modelling assumes a 20% mode shift is delivered. If it is not the crossings will be too small.</p> <p>If road capacity is delivered too early residents will find car travel quick and easy.</p> <p>Opening both crossings early will undermine the achievement of sustainability objectives and there is therefore no need to consider the Crossing applications now.</p>	<p>- See point 3 above. The two Crossings work together, as comprehensive infrastructure with each performing a complementary function with the other in order to achieve key policy objectives and support planned growth. The CSC provides the sustainable transport connection between the Gilston Area site allocated for 10,000 homes and the urban area of Harlow and the ESC provides the capacity required to serve the allocated site and provide alleviation to key routes within the centre of Harlow facilitating the delivery of a wider Sustainable Transport Corridor (to be delivered by Essex County Council) that will serve not only new HGGT communities but existing residents and employment areas in Harlow.</p> <p>- Assessment of applications has to start somewhere and determining the Crossings as soon as ready and ahead of the Outlines is an appropriate sequence. Moreover as mentioned above, Planning Practice Guidance requires applications to be determined promptly, which means as and when they are ready. Therefore it is not in the gift of LPAs to decline to determine or to delay applications which are ready. If consideration of the Crossings were delayed until after the Outline decisions, a reasonable question would arise in connection with the Outlines as to whether a transport strategy would be effective if what is proposed by way of infrastructure is not clear and that infrastructure is has not as yet been assessed or determined.</p> <p>This would also mean that unless promptly determined the delivery of essential infrastructure (including the sustainable transport corridors and associated measures) would not be in place in good time to support a larger number of homes in the Gilston Area, allowing poor travel habits to form, undermining the ability to achieve the sustainable travel objectives and behavioural change. Officers consider that the transport information / strategy is sufficient to determine the applications, the Environmental Statement appropriately considers the full effects of the Development as a whole (the two Crossings and the Outline applications, taking account of cumulative and in-combination effects). Note the comments at paragraph 2 of item 20 above in that the Crossings have been subject to an Environmental Statement and</p>
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			the Habitats Regulations Assessment. Furthermore, the Highway Authorities consider the Crossings applications can be approved as submitted, after more than two years of careful consideration and amendments.
22.		No incentives are provided to encourage residents to use a bus of travel by active means. An alternative mitigation strategy is needed for when the mobility strategy fails and mode share targets are not met, particularly for later villages that are further away. Car ownership is likely to be high and bus travel expensive.	-The matter of sustainable travel incentives for new home occupants is a matter to be dealt with in the Outline application. A package of incentives is proposed in the Outline application and has been agreed in principle through negotiation that will be considered by Members in due course and secured through the S106 on that application. The Crossings proposals put in place the infrastructure required to support the effective operation of the transport strategy and includes bus lanes and bus priority at junctions as well as dedicated walking and cycling routes. The achievement of the mode share will be secured as much through the design of the new communities themselves as putting the infrastructure in place; for example, by ensuring that everyday services are within walking distance of homes, accessed through safe, direct and attractive routes; it's about parking strategies (at home and destination), travel plans for schools and businesses; by enabling new ways of working in the home and reducing the need to travel; by making car journeys less direct and more convoluted than bus travel to support sustainable and active travel choices. . These are all factors being built into the design of the new communities through collaborative masterplanning with stakeholders, including developers and the community. For further context, the Highways Authorities would also be responsible for sustainable transport initiatives and measures in due course.
23.		Now the scale of interventions deemed necessary to make the outline applications sustainable in transport terms are known the decision to allocate the Gilston Area for 10,000 homes should be reviewed.	The extent of the infrastructure determined as being essential for the delivery of the Gilston Area and to enable growth in the wider Harlow area was known, evidenced and explored through the very recent Plan-making process and subject to the Examination in Public bearing in mind that the District Plans of both Councils were adopted in 2018 and 2020. It is beyond the remit of the Crossing applications to change the development strategy of the East Herts District Plan. More importantly the District Plans of both East Herts and Harlow and the evidence base supporting

			them including the case for the Crossings infrastructure are current and will be until 2033 based on a recent adoptions of Plans.
24.		The commentary in the paper by Edward Leigh on behalf of Hunsdon House emphasises the reasons for and justification for the Crossing proposals. Paper then states that the Crossings will be expensive, budgets will over-run and lead to viability issues and a loss of affordable housing, non-essential public infrastructure and travel plan commitments. Additional funding should be sought and risk management put in place to deal with economic uncertainties.	Viability data and deliverability of the Crossings is not relevant to the consideration of the planning merits. In terms of planning decisions, viability is relevant in assessing affordable housing delivery against policy requirements, which is not the remit of the Crossing applications. However, deliverability would be relevant and scrutinised in relation to the exercise of any CPO powers. Whilst suggestions as to alternative sources of funding and risk management may be sensible, these are not matters for members or planning judgement.
25.		By supporting an increase in road capacity and not proposing a counterbalancing pricing mechanism the Council is not acting in accordance with its Sustainability Action Plan. The pricing mechanism includes a congestion charge for Harlow.	Section 13.4 of the Officer's Reports considers in detail the impact of the Crossings in terms of materials and sustainability. The Crossings proposals will provide the infrastructure required by policy and to support the effective operation of the transport strategy, and include bus lanes and bus priority at junctions as well as dedicated walking and cycling routes. The achievement of the mode share objective in the Transport Strategy will be secured as much through the design of the new communities themselves as putting the infrastructure in place; for example, by ensuring that everyday services are within walking distance of homes, accessed through safe, direct and attractive routes; it's about parking strategies (at home and destination), travel plans for schools and businesses; by enabling new ways of working in the home and reducing the need to travel; by making car journeys less direct and more convoluted than bus travel to support sustainable and active travel choices. These are all factors being built into

			the design of the new communities through collaborative masterplanning with stakeholders, including developers and the community. For further context, the Highways Authorities would also be responsible for sustainable transport initiatives and measures in due course.
26.		<p>Additional representation received:</p> <p>Places for People</p> <p>The Applicants have submitted a paper entitled Stort Crossings Members Briefing setting out the details of the Crossings schemes in summary form and the justification for the determination and approval of the applications.</p>	This material is a summary of existing application material.
	Agenda No	Summary of representations/amendments	Officer comments
27.	7 HW/CRB/19/002 20	<p>Additional representation received:</p> <p>Hunsdon Eastwick and Gilston Neighbourhood plan Group</p> <p>New residents will need to cross 6 lanes at Eastwick junction.</p>	Residents in new Village 1 will have the option of crossing the junction via two islands (east side), one island (west side) or use a bridge dedicated to walking and cycling (east side). This is a significant improvement to the current crossing arrangement.
28.		<p>Additional representation received:</p> <p>Hunsdon House</p> <p>1,000 homes will be occupied before</p>	The triggers referred to are related to the proposed S106 obligations relating to the Outline application and are therefore not relevant to the Crossings. Triggers are a back stop positions and are used to incentivise developers to complete relevant stages of the proposals by a key stage/trigger. It is intended that the final pedestrian and cycle path is operational once the Central Stort Crossing is operational. In the

		pedestrian and cycle bridge is open.	interim, proposals are included to ensure safe and direct pedestrian and cycle routes across the Crossing are provided.
29.		<p>The elevated bridges are unsafe for many non-motorised users (NMU) users in particular women and girls. No references to other protected characteristics or different types of disability.</p> <p>Instead of an elevated bridge the road itself should be elevated and an underpass created.</p>	<p>Non-motorised user is no longer a term used to describe only pedestrians and cyclists or other active forms of travel; in industry design guidance it encompasses all potentially vulnerable users. The objection suggests not to build a segregated, dedicated pedestrian / cycle bridge because it would be unsafe due to the length of the bridge prohibiting escape from assault against a person yet also says that the proposed route adjacent to the road would also be unsafe and inconvenient because it requires crossing the road junction. The pedestrian and cycle path provided at the level of the road will be separated from the main vehicle running lane by the bus lane and will be designed according to prevailing standards such as LTN1/20 Guidance on cycle infrastructure design. The bridge over the Stort Navigation is at the same level as the road. Safety of the bridge over Eastwick Road will continue to be a key factor as conditions are discharged and as part of detailed design considerations for the elevated bridge structure through a design competition process. The safety of a diverse range of users of the infrastructure is being and will be factored in, with regard to any protected characteristics (e.g. age, race, gender, religion or belief, are married, in a civil partnership or single, belong to the LGBTQ+ community, are pregnant, or have a disability) by virtue of requirements set out in Condition 11 of the CSC report.</p> <p>- It is unclear how an underpass would be any safer than an elevated bridge, or be less impactful in a floodplain environment.</p>
30.		No additional lanes should be created on the Fifth Avenue Crossing but once the ESC is open it should be converted to bus	This suggestion ignores the vast number of businesses and residents in the western half of Harlow, it would result in routing these trips westwards along rural lanes and residential streets through Nazeing and Hoddesdon to reach the A10 before

		lane only. Only vehicular access to or from Harlow to the north would travel along ESC to reach Harlow.	continuing their westward journey, or routing eastwards through Harlow in order to travel westwards on the ESC and A414. This is not an option supported by the Highway Authorities of Hertfordshire or Essex. Nor does it put in place the sustainable priority along the CSC to serve the new communities early enough.
31.		Burnt Mill Lane should be closed to general traffic.	Burnt Mill Lane is currently only used by a small number of vehicles and access would need to be maintained for businesses and properties. The CSC application proposes public realm improvements to the section between Fifth Avenue and Burnt Mill Close to make it a more pleasant walking and cycling environment, which will be secured via Condition 13 in the Report.
32.		Additional representation received: Viesturs Not against crossing. But should an alternative solution such as connecting the river way with Harlow Rd A1184 or Edinburgh Way roundabout have been considered prior to the current submissions.	The issue raised has been addressed in the officers report
	Agenda No	Summary of representations/amendments	Officer comments

33.	8 HW/CRB/19/002 21	Additional representation received: Hunsdon Eastwick and Gilston Neighbourhood Plan Group Environmental impacts will be significant – noise, tranquillity, severance between communities.	These matters have been comprehensively addressed in the Officer Report (Section 13.2, 13.3, 13.6 and 13.7)
	Agenda No	Summary of representations/amendments	Officer comments
34.		Additional Representations received: Hunsdon House - Council should consider a smaller Eastern Stort Crossing	The Councils can only consider the planning merits of the Crossings applications before them. The Eastern Stort Crossing is designed as a single carriageway for the entirety of the route with the exception of the junctions at A414/Fifth Avenue/Eastwick Road, Village 1 All modes junction and Village 2/Eastwick Road where additional lanes are required for either bus priority or turning lanes. It cannot be constructed any smaller and still meet Highways standards or achieve the policy objectives.
35.		HIG funding is the reason for making decisions on the Crossings now but there is no need to approve the ESC because the ESC will not be delivered by 2025 so HIG funding will not be used for its delivery.	As explained in the officer report the HIG funding is not a material consideration and is not weighed in the balance in any manner. The existence of the HIG funding is a matter of public record, hence Officers considered it appropriate to clarify the context and guide members as to how they should approach it; - The grant funding arrangements between the Applicant, HCC as the administering authority and Homes England are not relevant matters to the planning merits of the Crossings applications in the same way that other funding or commercial arrangements between a developer / applicant for permission and other third parties are usually not relevant to planning decisions;

			- HIG is not treated as a material consideration, and Officers do not consider deliverability and funding as part of the assessment of the planning merits. These matters are typically considered as part of any decisions relating to the exercise of compulsory purchase powers, including those of the Secretary of State.
36.		The heritage assessment is flawed because it says that repairs to the listed bridge outweigh harms caused to the setting of the bridge.	<p>The Officer's Report at paragraph 13.7.17 states that Officers agree that repairs to the bridge are a benefit of the proposal but this does not outweigh the harms caused. Section 13.7 considers in detail the impacts of the ESC on heritage assets. Members are required to give great weight to these harms but are also able to weigh in the balance the substantial public benefits of the proposal including the benefit by reason of restoration. These benefits are detailed at paragraphs 13.7.44 and 13.7.45 of the ESC Report.</p> <p>Paragraph 13.7.41 states that</p> <p><i>"The harm to the significance of the Grade II listed Fiddlers Cottage which is considered to be less than substantial given the context of the diminished setting. However, when viewed as part of the 'picturesque group' of the two listed buildings of Fiddlers Cottage and the Footbridge, as cited in the list entries for both assets, this setting is preserved through retention of the viable use of the Footbridge in situ and improvements to the public realm through Pye Corner northwards of the Footbridge, which will be secured through Condition 43 on this application."</i></p> <p>The road bridge is located approximately 6m south of the footbridge, not overhead, and between the two bridges new tree planting is proposed that will assist in partially screening view of the road bridge from the Footbridge.</p> <p>The Officers are confident that the Heritage Assessment set out in the Report at Section 13.7 is sound.</p>
37.		Heritage Assessment by Donald Insall re-	Officers have already summarised and considered the Heritage Assessment by Donald

		<p>submitted. Covering note acknowledges that it has not considered any other policy interests and is only focussed on the heritage impacts on the listed Fiddlers' Brook Footbridge. Consider there will be serious harm to the setting of Fiddler's Bridge and Fiddlers Cottage. Do not consider that great weight has been given to the conservation of the asset because consideration has also been given to protecting residential amenity which has amended the location of the road bridge closer to the Footbridge. Residential amenity and ecology are not legal duties unlike the preservation of heritage assets.</p>	<p>Insall in Appendix B and in Section 13.7 of the Officer's Report. Donald Insall acknowledge that they have not carried out a comprehensive policy assessment which weighs other policy considerations against heritage harms. Essentially they have considered heritage implication in isolation of other relevant policies.</p> <ul style="list-style-type: none"> - To only focus on one aspect of relevant planning policy or considerations, ignores other policy imperatives, including the significant public benefits arising from the ESC that must be weighed in the balance when considering the less than substantial harm to the heritage assets. - there is no definition of 'serious harm' in the NPPF. Harm to heritage assets are designated as 'less than substantial harm', 'substantial harm' and 'total loss'. Great weight should be given to the asset's conservation, and the more important the asset the greater the weight should be. Harm, such as development within the setting of a heritage asset should require clear and convincing justification. Section 13.7 of the Officer's Report describes how the harm to the significance of heritage assets (including setting) is 'less than substantial' and that there are clear and convincing justification for the harm occurring. The Officers assessment applies the test in paragraph 202 of the NPPF: the public benefits of the proposal including, where appropriate, securing its optimum viable use, should be weighed against the less than substantial harm.
38.		<p>The LVIA does not include photos taken in winter or at night time or from footpaths within the valley. Illustrations should be provided of the proposal from the listed Footbridge.</p>	<p>Officers have conducted site visits on numerous occasions in all seasons. Members have also taken a site tour. Illustrations have been submitted which show the relationship of the Fiddlers' Brook road bridge with the listed Footbridge and also from the entrance to Terlings Park. Sections 13.2 and 13.7 of the Officers consider the visual impacts of the proposals. Please also see point 14 above.</p>
39.		<p>Additional representation received:</p>	<p>The planning issue raised has been considered in the officers report</p>

		<p>Mark Gibbs</p> <p>Objection - Damage the natural habitat of the area</p>	
40.		<p>Additional representation received:</p> <p>Viesturs</p> <p>Not against crossing. But should an alternative solution such as connecting the river way with Harlow Rd A1184 or Edinburgh Way roundabout have been considered prior to the current submissions.</p>	The issue raised has been addressed in the officers report
	Agenda No	Summary of representations/amendments	Officer comments
41.	<p>7</p> <p>HW/CRB/19/002 20</p> <p>and</p> <p>8</p> <p>HW/CRB/19/002 21</p>	<p>Additional Representations received:</p> <p>Pinsent Masons on behalf of Pope/Beaumont Family</p> <p>Consider that the committee reports unlawfully treat HIG funding as a material planning consideration, inappropriately emphasising the importance of it to the applications and the wider Gilston proposals and in relation to the timing of the</p>	<p>As explained in the officer report the HIG funding is not a material consideration and is not weighed in the balance in any manner (paras 2.12 to 2.13). The existence of the HIG funding is a matter of public record, hence Officers considered it appropriate to clarify the context and guide members as to how they should approach it;</p> <p>-The Reports (paras 2.10 – 2.13) make it clear, as a matter of fact, that the timing of the HIG funding impacts early delivery of the Crossings infrastructure. This pragmatic consideration combined with PPG guidance to determine applications promptly is a factor which has influenced the need to promptly determine the Crossings but the report is clear not to the merits of</p>

		<p>determination of the proposals (for example on paras 3.3.1 and 3.3.2 of the report. Consider that it is irrational to refer to HIG in the detail given whilst claiming that the matter is not material.</p>	<p>the applications.</p> <ul style="list-style-type: none"> - The grant funding arrangements between the Applicant, HCC as the administering authority and Homes England are not relevant matters to the planning merits of the Crossings applications in the same way that other funding or commercial arrangements between a developer / applicant for permission and other third parties are usually not relevant to planning decisions; - HIG is not treated as a material consideration, and Officers do not consider deliverability and funding as part of the assessment of the planning merits. These matters are typically considered as part of any decisions relating to the exercise of compulsory purchase powers, including those of the Secretary of State.
42.		<p>Failure to lawfully and properly assess the likely significant environmental effects of the development in the following ways:</p> <ul style="list-style-type: none"> - No or inadequate Environment Impact Assessment (EIA) in the event that Enabling Works (EW) restoration is required. There is no assessment of the likely significant effects of the EWs – which can be undertaken ahead of the grant 	<p>Enabling Works have not been subject to a separate EIA but the EIA has considered the full breadth of construction activities associated with the proposed development, which includes the activities that would be covered within a Construction Environment Management Plan.</p> <p>Officers have considered the likely impacts arising from the various types of Enabling Works and have tightly defined the scope of Enabling Works accordingly. As explained in paragraphs 13.6.46 to 13.6.48, the definition of 'Enabling Works' comprises "<i>site clearance and demolition; tree/vegetation removal (in accordance with the approved plans in Condition 2); soil investigations (including soakage testing, window sampling, boreholes, CBR's and gas monitoring); ecology surveys; archaeology surveys (including geo physical surveys, window samples and trenching); slip trenches to investigate</i></p>

of permission for Gilston Area Villages 1-6, in the event that planning permission is not granted. EWs include significant tree removal, significant site demolition and clearance and intrusive site surveys. Cond 40 does not cater for the scenario that the Land Restoration Scheme of Work is not permitted. No EIA screening out of the effect of the EWs nor consideration of the Land Restoration Scheme of Work.

- Flawed inadequate EIA cumulative assessment. In this respect, two of the wider Harlow and Gilston Garden Town (HGGT) development proposals, Latton Priory and West Sumners have been excluded from cumulative assessment. The Transport Assessment dealing with these sites and consequent EIA relying on it, is flawed.

existing services; drainage surveys (such as CCTV and jetting); river modelling; and topographical surveys". The potential for impact or harm by reason of any 'Enabling Works' has been considered by Officers in the context of each condition and its purpose, and Officers consider that the appropriate balance has been struck between enabling progress and necessary surveys and ensuring that harmful works will not take place. The type of work that can be carried out under the term 'Enabling Works' is limited in nature, and which are of small scale, temporary and reversible (with the exception of vegetation removal) i.e. are not considered likely to have significant effects. The extent of any necessary tree removal required for undertaking any survey work is limited to that approved by virtue of the submitted plans, the impact of which has been assessed in the Environmental Statement. Where conditions require certain operations to be carried out prior to the commencement of the development, Officers have made a reasoned judgement in relation to the potential impacts of the operation and have excluded these works from the Enabling Works definition.

It is unlikely that the Enabling Works will proceed unless the Applicant is confident that the Villages development will proceed, hence the needs for the crossings. The scenario of Enabling Works taking place with no Village development is not a likely effect of the Crossings development for which planning permission is sought. Moreover, any such effects will be capable of being satisfactorily addressed by way of the Restoration Scheme provided for under Condition 40.

Officers do not consider on the evidence and as a matter of judgment, that the

		<p>Enabling Works in and of themselves give rise to likely significant environmental effects. Moreover any such effects will be capable to being satisfactorily addressed by way of the Restoration Scheme provided for under Condition 40.</p>
43.	<p>Transport Assessment of the Crossing applications is flawed in a number of ways:</p> <ul style="list-style-type: none"> - Lack of justification for uniform mode share assumptions for cumulative developments despite their differing characteristics; - Prematurity ahead of scrutiny of Villages 1-6 quantum, internal configuration, parking strategy and modal shift assumptions which may have a material effect on the highway network; - Uncertainty of achievement of the wider Sustainable Transport Corridor (STC) network – no assessment of the reliability of other schemes in relation to 	<p>The Councils are confident that the Village Schemes will deliver 20% modal shift and that this can be secured through the approval process. The assumption made therefore is a reliable one. The Highway modelling contained within the Environmental Statement assesses the growth based upon compliance with the Development Plan. It would not be appropriate for the applicant to be required to explore alternative scenarios that are contrary to the Development Plan or to provide justifications on behalf of other developments as to how they will meet their Policy requirements.</p> <p>Policies that establish the mode hierarchy and the approach of development across the Garden Town area are established through the East Herts District Plan. The Gilston Villages 1-6 application contains a detailed Development Specification and Parameter Plans. The premise of the transport strategy is not a predict and provide strategy but a vision and validate approach which establishes the vision for achieving the modal share and then each part of the development must be designed to meet those objectives. Appropriate S106 obligations relating to monitoring and achievement of the mode share target will be secured as part of the Outline application.</p> <p>The Environmental Statement has been provided in full with the Crossings</p>

funding and timescales. No sensitivity testing of scenarios of whether the proposed development is designed correctly if modal shift assumptions are not achieved;

- Uncertainty as to whether Gilston Area Villages 1-6 development will proceed and lack of policy support and adequate EIA and TA of the crossings proposals if it did not. The linking condition as proposed enables the crossing development proposals to proceed only on the grant of planning permission for Villages 1-6, rather than the actual carrying out of development. So, the crossings development may proceed if Villages 1-6 are granted planning permission but do not proceed. There is a lack of a policy basis for this outcome and no EIA or TA has been undertaken in relation to that scenario.

applications, including the highway modelling, this has not been redacted or excluded and is available for public scrutiny and comment.

This is not a scenario that is considered likely as the Applicant is unlikely to proceed with the Crossing in the absence of the village development. The Councils are satisfied that a condition limiting beginning of development gives sufficient confidence that the Village scheme will proceed to allow the Crossings development to be carried out. The EIA of the Development considers appropriately the worst case scenario of all three applications proceeding.

44.	No or inadequate EIA of the crossing development in the event that Gilston Villages does not proceed. Equally no assessment of the planning balance in that scenario.	This is not a scenario that is considered likely. The EIA of the Development considers appropriately the worst case scenario of all three applications proceeding.
45.	Incorrect EIA of Land Restoration. Para 13.6.48 inaccurately reports that condition 40 applies in the event that Village 1-6 development does not commence within 18 months. That is incorrect and condition 40 only has effect if planning permission is not granted for Villages 1-6 within 18 months of the Eastern Stort Crossing (ESC) being granted.	<p>Officers clarify that Condition 40 applies in the scenario that within 18 months of the granting of the Crossings the Outline application is not granted, any works carried out under Enabling Works will need to be restored.</p> <p>Condition 40 seeks to safeguard against a scenario where the Outline Villages 1-6 is refused or otherwise delayed and does not progress. It is noted above that this it is a highly unrealistic scenario given the enabling nature and expense of the Crossings that the developer would proceed with the Crossings absent permission for the Outline. Nevertheless Condition 40 is now revised to include a method statement/phasing of restoration works. Officers also recommend an additional section to prevent any other material operations in the event that Enabling Works have taken place and outline permission is not granted, such that only approved restoration works can take place.</p> <p>"If at any period within 21 months of the date of this permission any Enabling Works have been carried out and planning permission has not been granted for the outline planning application EHDC Ref 3/19/1045/OUT, no further material operation shall be carried out on the application site except for restoration works in full accordance with the approved Land Restoration Scheme of Work."</p>
46.	No or inadequate EIA of the ESC due	As previously reported Officers consider that sufficient information is provided

	<p>to lack of survey data as a result of constraint over access. Surveys from accessible land and desktop surveys are not capable of amounting to an adequate assessment of the likely significant environmental effects of the development. This also has an impact in relation to the application of the Biodiversity Net Gain Metric. Dealing with this matter through the applications of conds (30 – 36) provides no cure.</p> <p>Cond 40 fails the NPPG test of conditions as there is no prospect of the landowner allowing access for the carrying out of site surveys. The same applies in relation to any other conds relating to pre-commencement and pre-Enabling Works.</p>	<p>upon which to make a reasoned judgment as to the impacts of the Crossings on the environment. The prospect of a landowner refusing consent must be seen in the context of the prospect of the developer having to have gained control of the land to develop it so it may well to have control when the surveys are required (and use of CPO powers is available). As such, the conditions are reasonable. In any event, at this stage, we are satisfied that sufficient information is available to confidently reach a worst case basis for assessment.</p>
47.	<p>Failure to carry out the heritage impact assessment correctly. It is considered that the EIA does not carry out an adequate assessment of the impact of the ESC and LBC applications.</p>	<p>This has been addressed in Section 13.7 of the Officer Report. A Heritage Statement has been submitted with the EIA and it is considered that this provides sufficient information.</p>

48.

Irrational assessment of very special circumstances (VSCs). The very high hurdle of VSCs cannot rationally be said to have been met:

- The policy basis that supports the provision of the crossings cannot be relied upon as neither Local Plan has removed the ESC or CSC sites from the Green Belt;
- Conclusion that the delivery of the Gilston Villages 1-6 is a consideration of significant weight cannot be rational as no planning permission has been granted for Villages 1-6, the relative benefit and harms of the Villages 1-6 proposals are not known or scrutinised and there is no knowledge of the s106 benefits; condition 4 only requires for the grant of planning permission for Villages 1-6, not delivery; the allocation of the site for Villages 1-6 and 7 cannot count as providing VSCs as the allocation did not

As set out in the Officer's Report, Both Local plans identified the need for the Crossings in the Green Belt. This is a relevant consideration which contributes to constitute Very Special Circumstances, but is not sufficient on its own. It is appropriate within Planning Practice Guidance that the allocation of the Gilston Area development can on its own represent Very Special Circumstances.

remove the land of the ESC and CSC from the Green Belt; there is no certainty of adequate funding for the ESC and CSC via HIG or otherwise and the re-worked viability assessment of V1-6 is yet to appear; there cannot be sufficient confidence that V1-6 will be delivered.

- Delivery of V7 is equally uncertain, relative benefits and harms have not been assessed and there is no condition linking the crossings permissions to even the grant of permission in relation to V7;
- No weight can be given to the wider STC aspirations, to which the ESC and CSC contribute given that the ESC and CSC are dependant of the delivery of Gilston V1-6 and there is no certainty of delivery and no assessment of the deliverability of the wider network. STC aspirations require delivery of a number of other schemes which are not sufficiently certain.

49.		Unlawful reliance on Gilston Area V1-6 coming forward to justify the ESC and IROPI for Habitats Regulation purposes	The Habitats Regulations Assessment assesses the Crossings and Outline Villages 1-6 applications as a single project/Development. HRA concludes that the Councils are satisfied beyond reasonable scientific doubt that the Development, alone or in combination with other plans and projects would not have an adverse effect on the integrity of National Network Site once mitigations have been considered following an Appropriate Assessment. The HRA does not rely on imperative reasons of overriding public interest (IROPI) in reaching that conclusion.
	Agenda No	Summary of representations/amendments	Officer comments
50.	7 HW/CRB/19/00220 and 8 HW/CRB/19/00221	Additional representation received: MOMENTUM TRANSPORT CONSULTANCY (on behalf of Mr Roger Beaumont and Mrs Mary Pope) No justification for early determination of the Crossings applications and references to HIG within the Committee Report are inappropriate.	The NPPF requires that decisions on applications should be made as quickly as possible, the applications are considered ready to be determined. As explained in the officer report HIG is not considered a material consideration (paragraph 2.13). The HIG award is a matter of public record therefore it is considered appropriate to explain this context and guide Members to how to treat it.
51.		The assessment of the highways modelling informing the Gilston Area (Villages) application, the EIA, the capacity and design of the Crossings	Each application will be judged against the Development Plan and other material considerations at the time of its determination and on its own merits. Determination of the Crossings applications first would not change the way that the Gilston Area Villages applications are assessed; these will be

	will be 'by-passed' and 'meaningless' if the Crossings are determined first.	objectively considered on their own merits having regard to relevant development plan policies and other material considerations. See for further detail paragraph 20 of Late Reps Summary.
52.	Car Parking, strategies and realism of the justification of car modal share that inform the modelling have not been scrutinised and approved for the Gilston Area (Villages) applications.	<p>The Crossings applications are assessed in accordance with the policies of the Development Plan and other material considerations, including the need to be designed to support the active, sustainable and highway mode hierarchy needs of development across the Garden Town area for which they were identified in the Council's Policies as necessary infrastructure.</p> <p>The Transport modelling contained within the Environmental Statement assesses the needs of the planned growth based upon them being compliant with the Development Plan. It would not be appropriate for the applicant to be required to explore alternative scenarios that are contrary to the Development Plan.</p>
53.	Highways modelling supporting the EIA is not allowed to be scrutinised at this time. Substantive highways comments from the statutory consultees are absent from the Officer Report.	<p>The Environmental Statement has been provided in full with the Crossings applications, including the highway modelling, this has not been redacted or excluded and is available for public scrutiny and comment.</p> <p>Comments on the applications have been received from statutory consultees associated with highways including ECC and HCC highway Authorities and National Highways (formerly Highways England). These comments are summarised within the Committee reports and are published in full for public view. Any necessary mitigation is secured by conditions and the appropriate consultees have commented upon the mitigation and are satisfied.</p>
54.	It is 'inconceivable' that the ESC and	The Crossings have been identified within the Development Plan as

	CSC would represent the singular highways solution without the Gilston Area development.	infrastructure necessary to support the growth allocated in the Development Plan. It would not be appropriate for the applicant to be required to explore alternative scenarios that are contrary to the Development Plan.
55.	The ESC in totality is needed as access into the Gilston Area and as such is absolutely essential for that development.	The Crossings have been identified within the Development Plan as infrastructure necessary to support the growth allocated in the Development Plans following relatively recent examinations in public for both Councils.
56.	Scrutiny is required of the concern from National Highways regarding the modelling and doubts regarding the mode share assumptions.	<p>National Highways (formerly Highways England) confirmed on 16 February 2021 that they have no objection to the Crossings applications. Within the response reference is made to concern as to whether the predicted mode shift (for the Gilston Area Villages development) will be achieved and seeking clarity as to when the Crossings will be provided, noting the public transport link to Harlow town centre will be critical to the achievement of the mode shift.</p> <p>Officers consider both these matters to relate to the assessment of the Gilston Area Villages applications where the proposed measures to achieve the required travel mode shift are to be judged and any triggers for the delivery of infrastructure and caps on development until infrastructure has been provided can be secured via a Section 106 Agreement on that application. In accordance with the response, no objection is recorded by National Highways that might prevent determination of the Crossings applications.</p>
57.	Evidence of assessment of the Highways modelling should be made available for public interrogation.	The Environmental Statement has been provided in full with the Crossings applications, including the highway modelling, this has not been redacted or excluded and is available for public scrutiny and comment.

		Comments on the applications have been received from statutory consultees associated with highways including ECC and HCC highway Authorities and National Highways (formerly Highways England). These comments are summarised within the Committee reports and are published in full for public view. Any necessary mitigation is secured by conditions and the appropriate consultees have commented upon the mitigation.
58.	The applicant has not demonstrated how other developments across the Garden Town will deliver the mode shares assumed within the highways modelling.	The Highway modelling contained within the Environmental Statement assesses the growth based upon compliance with the Development Plan. It would not be appropriate for the applicant to be required to explore alternative scenarios that are contrary to the Development Plan or to provide justifications on behalf of other developments as to how they will meet their Policy requirements.
59.	There is no policy basis cited to provide confidence on the travel mode levels assumed in the highways modelling.	Policies that establish the mode hierarchy and the approach of development across the Garden Town area are established through the East Herts District Plan, the Harlow Local Development Plan and the draft Epping Forest District Local Plan. Those related to the EHDC and HDC Development Plan are set out in Section 9 of the Officer Report.
60.	Latton Priory and West Sumners (part of the Water Lane area) allocations were not included in the cumulative development assessment within the highway modelling.	The Crossings applications are assessed in accordance with the policies of the Development Plan and other material considerations, including the need to be designed to support the active, sustainable and highway mode hierarchy needs of development across the Garden Town area for which they were identified in Policies as necessary infrastructure. The Crossings, once completed do not generate travel movements, they facilitate the distribution of those movements. Nevertheless, the highway modelling is included within the Environmental Statement that is used to assess the impacts of the Crossings

developments, including in combination with other developments.

The total growth travel movements generated through the growth within the Garden Town (and relevant other development sites across the area) are built into the Hertfordshire County Council COMET model on which the applicants model is based, this is evidenced in Tables 1 and 2 of the Forecasting report, Gilston Paramics Modelling Assessment (December 2018, Vectos) as submitted within the Environmental Assessment. All growth in the Garden Town, including the full draft allocations for growth in the Water Lane Area and at Latton Priory is therefore built into the highway modelling.

The applicant's highway modelling further refines the COMET model for the Garden Town through assigning portions of that growth to specific locations.

The Gilston Park Estate ES Addendum, Volume 3: Appendices (Quod, November 2020) Appendix 3.5 set out updates to the cumulative development schemes that they have specifically assigned within the highways modelling, nevertheless the full scale of growth continues to be assessed, but on a distributed basis. ECC identified, in response to the Gilston Area Villages 1-6 application, that the cumulative developments scheme list excluded the full Water Lane and the Latton Priory development allocations. In response the applicant submitted further sensitivity testing as part of the Gilston Area Villages application that confirmed that the impact of removing that development from background growth and assigning it specifically to the allocation areas through a sensitivity test showed that the overall effects on the performance of the Harlow road network were similar.

In respect to the Crossings applications, Officers are satisfied that the total

		scale of cumulative growth has been considered when assessing the Environmental Impacts of these applications.
61.	No evidence-led approach in considering the assumed mode shares for the developments not in the applicants control which are relevant to the Crossings applications.	<p>The Highway modelling contained within the Environmental Statement assesses the growth based upon compliance with the Development Plan. It would not be appropriate for the applicant to be required to explore alternative scenarios that are contrary to the Development Plan or to provide justifications on behalf of other developments as to how they will meet their Policy requirements.</p> <p>The Crossings applications are assessed in relation to their accordance with the policies of the Development Plan and other material considerations, including to be designed to support the active, sustainable and highway mode hierarchy needs of development across the Garden Town area for which they were identified in Policies as necessary infrastructure.</p>
62.	The Committee are being asked to consider developments for mitigating the impacts of other developments that are yet to be scrutinised and determined which may require re-design or altering as a result and should be refused as premature.	<p>The Crossings applications are assessed in accordance with the policies of the Development Plan and other material considerations, including the need to be designed to support the active, sustainable and highway mode hierarchy needs of development across the Garden Town area for which they were identified in Policies as necessary infrastructure. The Crossings take account of the scale of movement modelled for the Garden Town based upon the Development Plan. They do however, also include features specific to the Gilston Area development in the form three access points. In designing the Crossings, material considerations including the Gilston Area Concept Framework and the outline application for the Gilston Area Villages 1-6 development have been taken into consideration. The design in front of the Committee as submitted</p>

		<p>must be assessed against the Development Plan on its merits.</p> <p>Should there be changes to these accesses when determining the Gilston Area Villages 1-6 application the planning system and various legislative provisions provide the mechanism and flexibility to consider amendments to applications.</p>
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Actions:

Revise Recommendation 1. b. of the Officer Report to include amended condition 11, as above.

Delete Recommendation 2. of the Officer Report.