

# Lower Thames Crossing

## 5.5 Statement responding to Local Authority stated positions on Adequacy of Consultation

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# 1 Executive summary

- 1.1.1 In September 2022 the Planning Inspectorate facilitated a tripartite meeting between the Applicant and a number of local authorities. Prior to the meeting, the Planning Inspectorate requested that Local Authorities provide a written statement setting out their position with respect to the adequacy of consultation. This document provides a summary response to the concerns raised by Local Authorities. This document also signposts to where further information supporting the Applicant's summary response to these matters can be found within the rest of the application documents.
- 1.1.2 In their response to the Planning Inspectorate the Local Authorities identified a number of concerns. These were reviewed by the Applicant and developed into three core themes:
- a. Public Consultation Process
  - b. Consultation materials
  - c. Pre-application engagement
- 1.1.3 In addition, two areas of specific concern were identified, relating to consultation relating to a change to a construction compound, and a statement that a further Statutory Consultation was required.
- 1.1.4 This document provides responses to the identified themes, as well as to the specific areas of concern.
- 1.1.5 The document sets out that the Applicant concludes that the statutory consultation for the Lower Thames Crossing, along with the following subsequent consultations on changes and the community impacts, comprehensively set out the proposals and allowed for informed and thorough responses. The consultation process, in terms of notifications and duration, complied with the statutory requirements for each consultation.
- 1.1.6 The document sets out that the Applicant further concludes that through engagement as well as the public consultations, the local authorities and other stakeholders have been fully and effectively engaged on the development of the proposals and the forecast impacts, and have had extensive opportunity to feed into the proposals in accordance with the Guidance. The Applicant has responded to the feedback, by advising of changes or, where no change has been made, by advising on the reasons. This process of engagement has met the requirements set out in the Planning Act 2008 in both word and intent of the Guidance, and as such the Applicant considers that the test of adequacy has been met.

## 2 Introduction

### 2.1 Purpose

2.1.1 The purpose of this document is to provide a summary response to the concerns raised by Local Authorities regarding the adequacy of consultation in their written statements to the Planning Inspectorate in September 2022, prior to the submission of the Development Consent Order application. This document also signposts to where further information supporting the Applicant's summary response to these matters can be found within the rest of the application documents.

### Background

2.1.2 On 23 October 2020 the Applicant submitted an application for development consent to build the Lower Thames Crossing (the Project). Following early feedback from the Planning Inspectorate, the Applicant withdrew the application before the end of the acceptance period, on 20 November 2020. The Planning Inspectorate subsequently published information regarding the discussions which took place in relation to the withdrawn application as Section 51 advice, on its website, including:

- a. A note recording meetings between the Planning Inspectorate and the Applicant on 13 November and 18 November 2020:  
<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010032/TR010032-Advice-00026-1-201113%20Lower%20Thames%20Crossing%20-%20Acceptance%20meetings%20FINAL.pdf>
- b. A note recording a meeting between the Planning Inspectorate and the Applicant on 26 November, which also includes an annex ('Observations from the consideration of Highways England's application for Lower Thames Crossing') in which, alongside other sections dealing with separate aspects of the withdrawn application, issues raised in local authority adequacy of consultation representations were set out under the following two headings: 'Sufficiency of information' and 'Feedback on consultation':  
<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010032/TR010032-Advice-00029-1-201126%20LTC%20Project%20Update%20Meeting.pdf>

2.1.3 The discussions which took place in November 2020 largely centred on the content of the withdrawn application, including concerns raised by local authorities in relation the adequacy of the consultation through their adequacy of consultation representations.

2.1.4 Following the withdrawal of the application in late 2020, National Highways developed a further programme of engagement and public consultation to address the concerns raised. This programme included continuous engagement with stakeholders, as set out in the Statement of Engagement (Application

Document 5.2), and two further public consultations, as further described in the Consultation Report (Application Document 5.1), which were:

- a. Community Impacts Consultation, in July 2021, which set out the impacts of the proposals on the community and the proposed mitigation and controls, providing information to a level of depth and granularity that went substantially beyond any other road scheme of this scale.
- b. Local Refinement Consultation in May 2022, which sought feedback on a set of proposed changes to the proposals following the previous consultation.

2.1.5 In September 2022, the Planning Inspectorate facilitated a tripartite meeting between the Applicant and a number of local authorities. Prior to the meeting, the Planning Inspectorate requested that Local Authorities provide a written statement setting out their position with respect to the adequacy of consultation, and to explain their primary observations on the approach adopted by the Applicant. These statements then formed the basis of discussions at the tripartite meeting on 23 September 2022. Information relating to this activity was published by the Planning Inspectorate as Section 51 advice on its website, as follows:

- a. These documents had not been uploaded at the time of writing, but it is expected that they will be available here:  
<https://infrastructure.planninginspectorate.gov.uk/projects/south-east/lower-thames-crossing/?ipcsection=advice>

2.1.6 Section 4 of this document identifies the areas of concern raised by the Local Authorities in their statements, and draws them into key themes. A response to each of the areas of concern is then set out in Section 5.

### 3 Signposting to responses to Section 51 advice

- 3.1.1 The Applicant has prepared comprehensive responses to the Section 51 advice provided by the Planning Inspectorate and other matters arising throughout the pre-application engagement process. As this covers a number of topics, the Applicant's response is presented in multiple application documents, the most relevant of which are:
- a. Annex C of the Cover Letter with Schedule 55 Checklist for the LTC Project (Application Document 1.1), which sets out how the Applicant has had regard to, and acted upon, all advice provided by the Planning Inspectorate in accordance with section 51 of the Planning Act 2008.
  - b. Chapter 8 and Appendix V of the Consultation Report (Application Document 5.1), both of which explain how, through undertaking the Community Impact Consultation in 2021 and an extensive programme of engagement with stakeholders, the Applicant has addressed the matters set out in the Planning Inspectorate's note dated 26 November 2020, under the headings "Sufficiency of Information" and "Feedback on Consultation".

## 4 Statement on Adequacy of Consultation

- 4.1.1 In response to the Planning Inspectorate’s request, written statements relating to the adequacy of consultation undertaken by the Applicant were submitted by the following local authorities: Gravesham Borough Council, London Borough of Havering, Kent County Council, Medway Council, Essex County Council and Thurrock Council in September 2022.
- 4.1.2 A number of local authorities confirmed to the Planning Inspectorate in their written statements that, in their view, the pre-application consultation undertaken by the Applicant has met the requirements of the Planning Act 2008. These authorities included:
- a. London Borough of Havering
  - b. Essex County Council
  - c. Medway Council
- 4.1.3 Kent County Council considered that the approach across the five consultations has been proportionate.
- 4.1.4 However, a number of the local authorities’ written statements also expressed concerns about the consultations undertaken, including most notably the written statements of Thurrock Council and Gravesham Borough Council. It is anticipated that these statements reflect a developed position of the local authorities, documenting their understanding and consideration of how the Applicant has responded to the concerns raised at the time of the withdrawn application in November 2020. As a consequence, it is assumed that these representations can be taken to supersede those made by these authorities in 2020.

### Concerns expressed by Local Authorities

- 4.1.5 Concerns expressed by Local Authorities in the written statements are set out below in Table 1.1.

**Table 1.1 Concerns raised by the Local Authorities in response to the request from the Planning Inspectorate in September 2022**

Theme	Area of concern	Local Authority
Public Consultation Process	Concerns that the durations of consultations were insufficient and took place over holidays	Kent County Council, Thurrock Council
	Concerns that events were not held in some affected communities	Kent County Council, Thurrock Council
	Concern that the approach for each consultation did not build on lessons learned from previous consultations	Kent County Council
	Concern that it was unclear how the consultation had been informed by the	Kent County Council, Thurrock Council



Theme	Area of concern	Local Authority
	Equalities Impact Assessment, and did not do enough to provide access during the COVID-19 pandemic	
Consultation materials	Concern that the sequential consultation focussing on local changes resulted in confusion on the nature of the whole project and the cumulative impacts	Gravesham Borough Council, London Borough of Havering, Thurrock Council
	Concern that the route options were not revisited at later consultations	London Borough of Havering
	Concern that the Preliminary Environmental Information Report had not been updated	Gravesham Borough Council
	Concern that limited feedback had been provided to demonstrate how the Applicant had considered responses to earlier consultations	Gravesham Borough Council, Thurrock Council
	Concern that specific ward summaries were not provided for areas in Medway	Medway Council
	Concern that the content of the consultation material was insufficient to allow for informed responses	Thurrock Council
	Concern that the extensive content of the consultation made it difficult to access (specifically with regard to the Community Impacts Consultation)	Thurrock Council
Pre-application engagement	Concern that full assessments of traffic, economics, air quality, noise and health impacts had not been provided	Gravesham Borough Council, London Borough of Havering, Thurrock Council
	Concern that information sharing relating to traffic modelling was not complete	Thurrock Council
	Concern at the limited information shared on selected methodologies (Nitrogen deposition on ecological sites)	Kent County Council
	Concern that finalised control documents had not been shared	Gravesham Borough Council, London Borough of Havering, Thurrock Council
	Concern that that SoCG had only recently been shared and were still developing	Gravesham Borough Council
	Concern that a large number of issues remain unresolved	Thurrock Council

Theme	Area of concern	Local Authority
Specific matters	Concern at a lack of consultation on changes at the construction activities at Church Lane	London Borough of Havering
	Suggestion that a further Statutory Consultation should be held	Thurrock Council

4.1.6 To respond to the concerns expressed by the local authorities, the Applicant has identified three core themes of concern, as follows, each of which is considered below:

- a. Public Consultation Process - Concerns regarding the process of public consultation, focussed on the durations and timing of the consultations and the provision and selection of locations for consultation events, or the nature of the provision when consultation events could not be undertaken due to the COVID-19 pandemic.
- b. Consultation materials - Concerns with the material provided at consultation, including the level of detail in the information, clarity of presentation of the material and the accessibility of the information to the community.
- c. Pre-application engagement - Concerns over the effectiveness and comprehensiveness of the pre-application engagement with stakeholders.

4.1.7 A narrative is provided setting out the Applicant’s position on each of these themes below. A response to each area of concern, as well as any further, specific matters of concern which were raised by local authorities, is then set out in Section 5.

4.1.8 It is also relevant to note that Thurrock Council stated its view that a further Statutory Consultation should be held, as a proposed resolution to the other concerns it has raised. No other local authority expressed this view. This matter is addressed in the conclusion to this document.

4.1.9 Each of the three themes set out above are now addressed in turn.

## 4.2 Public consultation process

4.2.1 The Lower Thames Crossing consultations were developed to meet the principles of fair consultation in accordance with the requirements of the Planning Act 2008, guidance and case law, and having regard to best practice. This included consideration of duration, provision of events and accessibility considerations. A compliance checklist is included at Appendix A of the Consultation Report (Application Document 5.1), which confirms how the Statutory Consultation requirements of the Planning Act 2008, the EIA Regulations and the Applications: Prescribed Forms and Procedures (APFP) Regulations 2009 (as amended) have been met. It also demonstrates that the consultation process had regard to relevant statutory guidance. This document

sets out the considerations that specifically respond to concerns raised by local authorities in their written statements as to the adequacy of consultation.

## Applicant's Response

- 4.2.2 The Planning Act 2008 sets a minimum requirement for consultations of 28 days. The Planning Act 2008 – Guidance on the pre-application process (DCLG, 2015), hereafter described as the Guidance, states that “*many projects, particularly larger or more controversial ones, may require longer consultation periods than this. Applicants should therefore set consultation deadlines that are realistic and proportionate to the proposed project*”. The duration of each consultation was set by the Applicant to provide the public with a reasonable amount of time to consider and respond to the proposals. All consultations met the 28-day statutory requirement, and where the consultation sought feedback on the whole project, or on a particularly wide range of issues, the duration exceeded this substantially while remaining proportionate to the subject matter of the consultation.
- 4.2.3 Some local authorities consider that the duration of consultations, individually and cumulatively, have been insufficient. However, it is important to acknowledge that this is not a view shared by a large number of respondents to the public consultations. As set out in the Consultation Report (Application Document 5.1), many consultation responses, particularly those submitted in response to the Local Refinement consultation this year, have expressed the view that, following 259 days of public consultation since 2018, the pre-application process has been thorough, that respondents understand the Project, and that further consultation would neither be welcome, nor necessary.
- 4.2.4 In relation to the timing of consultations, these were considered carefully, and where they coincided with public holidays or exceptional events, additional time was allowed. For example, the Applicant's response following the imposition of national lockdown measures due to the COVID-19 pandemic was to extend the Supplementary Consultation, which was ongoing at that time, by one week to ensure that the public and stakeholders had sufficient time to respond to the proposals during a period of social change and uncertainty. The Applicant's approach to the Local Refinement consultation further underscores the extent to which public consultation has been carried out in a manner sensitive to the wider context. Rather than embark on a public consultation in the early part of 2022, the Applicant delayed the start of the consultation until May 2022, following the conclusion of local authority elections, in response to requests by a number of those authorities
- 4.2.5 When concerns were raised by local authorities about their ability to deliver their governance in the consultation timeframe, extensions were consistently given to the local authorities. These were agreed on the basis that the consultation durations were sufficient to consider and respond to the published materials, but the Applicant recognised that it takes local authorities additional time to approve their responses through the relevant governance procedures.
- 4.2.6 Where physical events were held, the locations were selected to provide access to the communities impacted. Where the consultations focussed on changes, this meant that events were targeted towards communities that would be impacted by the changes rather than by the proposals as a whole, using

information from the assessments and experience of local concerns from previous consultations. During the consultations, some local authorities made further requests for additional events and, where appropriate, these were accommodated.

- 4.2.7 The Applicant notes that, whilst some local authorities have consistently sought to challenge the Applicant’s approach to consultation events, this does not, nor should it be taken to, represent or reflect the views of consultees more generally.
- 4.2.8 Furthermore, prior to each consultation, discussions on the proposed consultation approach were held with local authorities, and a draft Statement of Community Consultation was prepared and shared (including for non-statutory consultations, on a “shadow” basis). This led to a number of changes to the arrangements for consultation, the details of which are set out in the Consultation Report (Application Document 5.1).
- 4.2.9 Some of the statements by local authorities suggest that the Applicant has not listened to their views or adapted its approach to consultation accordingly. The Applicant does not consider that this is an accurate or fair criticism. The Applicant has set out, in detail within the Consultation Report, and through the examples referred to above, the way in which continuous and extensive engagement with local authorities has informed the public consultations and resulted in changes to the Applicant’s approach. Where the Applicant has not changed its approach in relation to a specific issue, it has done so following careful consideration and explained its reasons. This should not be misconstrued as a failure to listen or to adapt; rather, it is a legitimate and necessary element of any complex engagement process.
- 4.2.10 Accessibility considerations, including ensuring inclusiveness for vulnerable groups were an important consideration during the development of the consultation plans. People with different protected characteristics may have different needs, priorities and experiences, which can impact on how they may interact with the consultation process. Accessibility in the broadest sense was a key factor throughout the planning of all consultations. Venues used for Public Information Events were fully accessible, with Building Accessibility Checklists completed as part of the assessment of venue suitability. Accessibility was not just limited to the physical attributes of the venues; at each venue the following was available if appropriate:
- a. A portable induction loop
  - b. A British Sign Language (BSL) signed event (provided on request)
  - c. An easy-to-read version of the consultation guide
  - d. Magnifiers for the central maps
  - e. An online disability awareness training course was provided for staff
- 4.2.11 Experience from previous consultations was used to identify key interventions, such as specific engagement activities with communities such as the community at the Gammonfields Way Travellers site. Local authority advice was sought during the planning phase to improve accessibility, and the Applicant

was advised that the plans were aligned with best practice. More information on how the approach to consultation considered equality, diversity and inclusion is provided in Appendix B of the Health and Equalities Impact Assessment (Application Document 7.10).

- 4.2.12 During the COVID-19 pandemic it was not possible to hold physical events and there was reduced access to deposit locations. National Highways carefully reviewed the updated guidance provided by the government, and developed a digital first strategy. This was supplemented with the opportunity to request hard copies of the materials, and a telephone call in via which questions could be raised and feedback provided. Local authorities were engaged in the development process to check that National Highways' plans for consultation were not missing opportunities for engagement that other organisations were using.
- 4.2.13 The initial announcement of restrictions due to COVID-19 took place towards the end of the Supplementary Consultation. As a result of this, National Highways had to cancel four consultation events. To support people responding, the Supplementary Consultation was, as noted, extended by eight days, and a telephone service was introduced and publicised for members of the public who had planned to go to the cancelled events. For the consultations which followed, a digital first approach was adopted, providing for online engagement, the use of telephone contact and the distribution of physical materials by post. This provided a means of engagement that was aligned with best practice. Experience from each consultation helped to develop the approach, and the Applicant refined the digital first approach over time to try to improve the effectiveness of the engagement, for example building on the interactive map first used and well received at Design Refinement Consultation for the later consultations. When restrictions eased, face to face events were reintroduced, but the digital first protocols were retained to ensure access for people who chose not to attend in person.
- 4.2.14 At each consultation, questions were included in the response form about the quality of the approach to consultation, including the location and quality of the events when these were held, and otherwise the ability to access information through the digital and telephone provision. Feedback from the consultees was consistently positive, demonstrating that the public were largely satisfied with the provision made by the Applicant. Across all of the consultations held, respondents who expressed an opinion on the quality of the events, 27% reported that they were very good, while a further 56% reported them as being average to good. Similarly, respondents who expressed an opinion on the location of the events, 25% reported that they were very good, while a further 57% reported them as being average to good.

4.2.15 Information to clarify where the matters set out above are further addressed in the application documents is provided in Table 2.1.

**Table 2.1 Signposting to information on the consultation process in the application documents**

<b>Consultation</b>	<b>Explanation of changes made to consultations to reflect Local Authority feedback</b>	<b>Information on consultation duration</b>	<b>Description of how the community were engaged through the consultation</b>	<b>Community feedback on consultation</b>
Statutory Consultation	Table 4.2, Chapter 4, Consultation Report (Application Document 5.1)	Chapter 4, Consultation Report (Application Document 5.1)	Chapter 4 of the Consultation Report (Application Document 5.1)	Chapter 11 of the Consultation Report (Application Document 5.1)
Supplementary Consultation	Table 6.2, Chapter 6, Consultation Report (Application Document 5.1)	Chapter 6 of the Consultation Report (Application Document 5.1)	The consultation engagement (including public information events, mobile centre events, deposit locations and information points) is set out in Section 6.5, Chapter 6, Consultation Report (Application Document 5.1)  Changes made to the consultation as a result of the COVID-19 pandemic are set out in Section 6.6, Chapter 6, Consultation Report (Application Document 5.1)	Chapter 12 of the Consultation Report (Application Document 5.1)
Design Refinement Consultation	Table 7.2, Chapter 7, Consultation Report (Application Document 5.1)	Chapter 7 of the Consultation Report (Application Document 5.1)	Due to the COVID-19 pandemic a digital first approach was taken as set out in Section 7.6.21, Chapter 7, Consultation Report (Application Document 5.1)	Chapter 13 of the Consultation Report (Application Document 5.1)
Community Impacts Consultation	Table 8.5, Chapter 8, Consultation Report	Chapter 8 of the Consultation Report –	The Community Impacts Consultation took place when restrictions put in place in response to the COVID-19	Chapter 14 of the Consultation Report



<b>Consultation</b>	<b>Explanation of changes made to consultations to reflect Local Authority feedback</b>	<b>Information on consultation duration</b>	<b>Description of how the community were engaged through the consultation</b>	<b>Community feedback on consultation</b>
	(Application Document 5.1)	Application Document 5.1)	pandemic were being eased, both in-person and digital engagement took place, as set out in Chapter 8 of the Consultation Report (Application Document 5.1)	(Application Document 5.1)
Local Refinement Consultation	Chapter 8 of the Consultation Report (Application Document 5.1)	Chapter 9 of the Consultation Report – Application Document 5.1)	The Local Refinement Consultation provided both in person and digital engagement, as set out in Chapter 9 of the Consultation Report (Application Document 5.1)	Chapter 15 of the Consultation Report (Application Document 5.1)

## 4.3 Consultation materials

4.3.1 In the preparation of the consultation, the Applicant was careful to meet the legislative requirements and follow the Guidance. Careful consideration was given to setting the proposals out in a clear and concise way, providing preliminary environmental information, and ensuring that the materials were prepared in a way that was accessible to the differing needs of the public and stakeholders.

### Environmental Information

4.3.2 Public consultations need to provide clarity on the proposals, and sufficient information on the impacts to allow the public to give informed consideration and prepare suitable responses. Equally, they need to be undertaken at a time when proposals are still at a formative stage, to allow the consultation to influence the proposals. As a result, it is recognised in the guidance that the full environmental assessments may not be available at the time of consultation, and that it is appropriate to consult on preliminary environmental information. Importantly, the concept of “preliminary environmental information” is embedded within the statutory regime itself, which plainly recognises a distinction between preliminary environmental information and a full Environmental Statement (ES) submitted with an application. Indeed, the Guidance confirms that the sharing of an ES may not be the most appropriate way to present potential environmental impacts and mitigation steps.

4.3.3 The changes proposed to the project since Statutory Consultation, along with external changes such as updated standards, guidance and assessment methodology, have inevitably meant that the understanding of environmental impacts has evolved over time. To address this, each consultation was supported by the provision of environmental information (Environmental Information updates at Supplementary Consultation and Design Refinement Consultation, and within the documentation as appropriate at the Community Impacts Consultation and Local Refinement Consultation). The environmental information provided at each consultation confirmed the effect of changes on the preliminary assessment conclusions set out in the Preliminary Environmental Information Report (PEIR) and, where relevant, provided any updates to those preliminary conclusions to ensure that consultees were appraised of the latest position and able to develop an informed view of the likely significant environmental impacts of the Project throughout the pre-application process.

4.3.4 Following the withdrawal of the application in October 2020, the Applicant prepared a further consultation, the Community Impact Consultation. This focussed on the impacts of construction on the community, and the associated controls. The proposals for this consultation were shared with local authorities, who provided feedback that local communities needed more information on how they would be impacted by the project in operation as well. As a result, the scope of the consultation was developed to provide localised presentation of the impacts during construction and operation. Ward scale assessments were provided for areas that would be directly impacted by construction, as well as wards adjacent to the existing Dartford Crossing which were included to show how the proposals would benefit the communities there. This meant that wards



located away from the Project, which would only experience impacts associated with changing traffic flows, did not have ward summaries. The information on impacts in these areas, which included wards in Medway, was set out in the Operational Update document (part of the suite of consultation documents),, and provided information on traffic flows and environmental impacts associated with the change in traffic.

- 4.3.5 The Community Impacts Consultation (2021) drew upon assessment information contained in the withdrawn DCO application (autumn 2020) and, to the knowledge of the Applicant, has raised the bar for a NSIP project of this scale, in terms of the granularity of information and localised presentation of impacts through the provision of assessments at a ward scale. The quality and quantity of information provided demonstrably met the standard of “preliminary environmental information”, providing a significant level of detail to enable the local communities to provide informed responses.

### **Ensuring consultation on changes set out each change in the context of the whole project**

- 4.3.6 Due to the scale and complexity of the Project, it has always been recognised that each round of consultation (irrespective of its scope) should also use the opportunity to present the latest Project design in full, to avoid confusion over the nature of the evolving proposals. As a result, each consultation included a complete suite of map books, including General Arrangements, Land Plans and Engineering Plans, as well as large scale plans covering the whole route. This provided a comprehensive view of the Project, to allow people to understand the updated proposals as set out at that consultation. At the Design Refinement Consultation, this was supplemented with an online interactive map, which received strong public support as a way of understanding the proposals as set out in the public responses to the feedback on the quality of information at each consultation, presented in the relevant chapters of the Consultation Report (Application Document 5.1). Because of this, updated and enhanced interactive maps were provided at subsequent consultations. To further support understanding a digital flythrough of the proposals was provided during the Statutory Consultation, and during the Community Impacts Consultation flythroughs were provided showing the construction proposals and visualisations 15 years after road opening.

### **Reassessment of the route selection process**

- 4.3.7 Following the preferred route announcement by the Secretary of State in 2017, the Applicant has presented information on the developing proposals for the selected route. This accords with the pre-application guidance, which states that applicants should undertake statutory consultation on a preferred option. The Applicant recognised that there would be interest in whether the work undertaken to identify the preferred route, and to discount other routes, was still valid as a result of the development in the proposals following the preferred route announcement. An Option re-appraisal was undertaken and set out in the Approach to Design Construction and Operation, provided during Statutory Consultation, and included as Appendix M of the Consultation Report (Application Document 5.1).

## Accessibility for the public

- 4.3.8 Careful consideration was given to the accessibility of the material to the public. Consultation materials were developed to allow people to access information at both a summary and detailed level, depending on their preference and interest. Easy read guides were prepared, and information was available in other languages including braille.

## Feedback

- 4.3.9 The Guidance states that *“It is good practice that those who have contributed to the consultation are informed of the results of the consultation exercise; how the information received by applicants has been used to shape and influence the project; and how any outstanding issues will be addressed before an application is submitted to the Inspectorate.”*
- 4.3.10 Feedback has been provided throughout the pre-application process to clarify how responses to the consultation have shaped the development of the Project. However, concerns were raised by some local authorities in November 2020 regarding the *“adequacy of informing those who have contributed to the consultation of the results of the consultation exercise, how the information received by applicants has been used to shape and influence the project”*. Gravesham Borough Council and Thurrock Council expressed similar concerns in their written statements to the Planning Inspectorate in September 2022.
- 4.3.11 In response to feedback and advice from the Planning Inspectorate following the withdrawn application, the Applicant carefully considered the Guidance on the pre-application process, which further states *“The consultation report may not be the most appropriate format in which to respond to the points raised by various consultee groups and bodies. Applicants should therefore consider producing a summary note in plain English for the local community setting out headline findings and how they have been addressed, together with a link to the full consultation report for those interested”*. The Applicant published a comprehensive feedback document titled “You Said, We Did” as part of the Community Impacts Consultation, setting out the responses and the changes made following the three preceding consultations. An additional document was published in spring 2022 setting out the response to the Community Impacts Consultation, and a further document has been provided on the findings of the Local Refinement Consultation. Furthermore, an online Storymap setting out how the Project has been developed from Statutory Consultation to the final proposals set out in the application, reflecting feedback from the public consultations and stakeholders, has been made available prior to the submission of the application. These documents were targeted towards and written with the public audience in mind, in accordance with the guidance.

## Community views on consultation

- 4.3.12 At each consultation, questions were included in the response form about the process of consultation, including the quality of information provided. Consultees were provided with the opportunity to comment. Feedback from the consultees was consistently positive. Across all of the consultations held, 32% of respondents who expressed an opinion on the materials reported they were ‘very good’, while a further 55% reported that they were average to good.

- 4.3.13 In addition, consultees were asked in the Community Impacts Consultation whether they “*support or oppose how issues and suggestions about the Lower Thames Crossing have been addressed following earlier rounds of public consultation?*”. A total of 2,562 consultees answered this question, 49% supported or strongly supported, while a further 16% were neutral. A total of 29% opposed or strongly opposed, with the remaining 6% stating “*Don’t Know*”.

## 4.4 Pre-application engagement

- 4.4.1 The Applicant has maintained a long- term programme of engagement with stakeholders alongside the formal consultations, holding regular meetings with stakeholders and sharing additional information (i.e. beyond that published in formal consultations). The Guidance states “*Applicants should engage with them [Local Authorities] as early as possible to ensure that the impacts of the development on the local area are understood and considered prior to the application being submitted to the Secretary of State.*”. It follows by confirming: “*Local authorities will be able to provide an informed opinion on a wide number of matters, including how the project relates to Local Plans. Local authorities may also make suggestions for requirements to be included in the draft Development Consent Order. These may include the later approval by the local authority (after the granting of a Development Consent Order) of detailed project designs or schemes to mitigate adverse impacts. It will be important that any concerns local authorities have on the practicality of enforcing a proposed Development Consent Order are raised at the earliest opportunity*”.
- 4.4.2 Technical information, including developing designs and construction plans, environmental assessment methodologies and outcomes, and mitigation proposals, was shared with local authorities in the period 2017 to 2020 as the plans for the Project developed.
- 4.4.3 Following the withdrawal of the DCO application in 2020, local authorities raised concerns that they were unclear as to the Applicant’s approach in relation to a number of issues, and that there were other matters that had not been addressed. As a result of this feedback, the structure of the engagement with local authorities and other stakeholders was reviewed and enhanced to provide better clarity. This included:
- a. A review of historic correspondence to ensure that all issues identified by the local authorities had been identified
  - b. Sessions with the local authorities to prioritise the relevant issues
  - c. A programme of work to respond to all of the priority issues and then continue to respond to the lower priority issues
  - d. Provision of comprehensive information in relation to the Project, comprising:
    - i. The full withdrawn DCO application, including the complete design information as set out in the Book of Plans, traffic modelling information, comprehensive environmental and transport assessments, and the full set of control documents, including the draft DCO and control plans

- ii. Early drafts of additional control documents developed after the DCO withdrawal, such as the outline Materials Handling Plan and outline Traffic Management Plan for Construction
- iii. A revised draft of the construction transport assessment reflecting comments provided on the version previously shared
- iv. Updated versions of the control documents, as set out for public consultation
- v. Updated traffic model information, on both operation and construction
- vi. Developing design information, focussing on elements of the Project that were changing as a result of consultation feedback
- vii. Successive drafts of the draft DCO

4.4.4 This information sharing and engagement has resulted in extensive modifications to each of the documents, and National Highways has provided feedback on the commentary received.

4.4.5 In addition to individual stakeholder meetings, collaborative working groups were set up to address specific themes. Some of these were with individual stakeholders, including a traffic and construction working session with Thurrock Council; others included multiple stakeholders such as the Community Impacts and Public Health Advisory Group, the Emergency Services and Safety Partnership Steering Group, and the Skills, Education and Employment Working Group. Through these sessions, the Applicant has actively progressed discussions relating to the information shared, providing detailed updates to proposals as they are developed in response to feedback, including sharing provisional wording for the various control documents.

4.4.6 Through this process, the local authorities and other stakeholders have been closely involved in the developing proposals, and have been able to provide feedback which has then been incorporated into the Project.

4.4.7 A number of local authorities have identified specific areas for further engagement. Extensive engagement on these matters has taken place, setting out clearly the Project proposals and the impacts. This has enabled these local authorities to develop informed positions in relation these matters. In a number of cases, the local authorities have asked for additional information to support them in developing their position, and the Applicant has worked to provide this. Further information on the status of engagement with the local authorities is set out in the Statement of Engagement (Application Document 5.3), and the individual areas under consideration with each local authority are set out in the relevant Statements of Common Ground documents (Application Document 5.4).

4.4.8 Two examples are considered here, including Kent County Council in relation to the impacts of nitrogen deposition on designated ecological sites, and Thurrock Council in relation to traffic modelling:

- a. The site selection methodology for nitrogen deposition was provided to Kent County Council, to support their understand of the development of the proposals. The finalised assessments are set out in Chapter 8 of the Environmental Statement (Application Document 6.1).
- b. Following requests from Thurrock Council the following additional models were developed and shared:
  - i. A local junction model of Orsett Cock junction, reflecting local peak hours
  - ii. A local junction model of Manorway junction
  - iii. Four different models of route alternatives, incorporating the Tilbury Link Road and varying connectivity at the A13 junction

4.4.9 Some Local Authorities, including Thurrock Council, London Borough of Havering, Gravesham Borough Council and Medway Council, have taken the view that the final versions of selected application documents should be shared prior to the submission of the application. Those authorities have not identified any statutory duty or otherwise in support of that position, which also fails to recognise that, adopting reasonable and standard practice, the Applicant has been developing and finalising application documents up to the point of submission. The Applicant considers that, through the engagement processes set out above, the local authorities and other stakeholders have been fully and effectively engaged on the development of the proposals and the forecast impacts, and have had extensive opportunity to feed into the proposals in accordance with the Guidance. The Applicant has responded to the feedback, by advising of changes or, where no change has been made, by advising on the reasons. This process of engagement has met the requirements set out in the Planning Act 2008 in both word and intent of the Guidance. Following submission of the application, local authorities will have the opportunity to consider and make representations in respect of the application documents. This accords with the process laid out in the Planning Act 2008 and is the appropriate way to proceed.

4.4.10 The Applicant considers that the Project proposals and the forecast impacts of the Project have been clearly set out for the Local Authorities, both through consultation and the sharing of information as part of the extensive programme of technical engagement. Discussions with the Local Authorities have helped inform the mitigation proposals, which have been shared iteratively as they have been developed. The Applicant will continue to engage with the Local Authorities during the next phase in the process, but the Applicant considers that the requirements and intent of the pre-application phase have been met and, in a number of respects (see in particular the maturity of draft Statements of Common Ground, referred to below) exceeded.

4.4.11 Central to the process has, as noted, been the development of draft Statements of Common Ground with stakeholders, including local authorities. Multiple drafts have been shared and discussions have been held over the content. Even accounting for the scale of the Project, the Applicant considers that the pre-

application progress made on Statements of Common Ground compares very favourably when benchmarked against both law and guidance on DCOs, and other DCO applications. It is relevant to note that draft Statements of Common Ground are not mandatory application documents, and not formally a “required” part of the process until the first relevant deadline set for the examination stage. This leaves sufficient time for these documents to continue to develop, reflecting the submitted application to inform the examination process.

- 4.4.12 A comprehensive overview of the engagement with stakeholders is provided in the Statement of Engagement (Application Document 5.2).



## 5 Response to specific areas of concern

- 5.1.1 This section provides individual responses to the areas of concern raised by the Local Authorities in their response to the request from the Planning Inspectorate as set out in Section 4 in Table 1.1.

### 5.2 Public Consultation Process

#### Concerns that the durations of consultations were insufficient and took place over holidays

- 5.2.1 The Planning Act 2008 sets a minimum requirement for consultations of 28 days. The Guidance states that “*many projects, particularly larger or more controversial ones, may require longer consultation periods than this. Applicants should therefore set consultation deadlines that are realistic and proportionate to the proposed project*”. The duration of each consultation was set to provide the public reasonable time to consider and respond to the proposals. All consultations met the 28-day statutory requirement, and where the consultation sought feedback on the whole project, or on a particularly wide range of issues, the duration exceeded this substantially while remaining proportionate to the subject matter of the consultation. The timings of the consultations were considered carefully, and where they coincided with public holidays, additional time was allowed.
- 5.2.2 When concerns were raised by local authorities about their ability to deliver their governance in the consultation timeframe, extensions were provided to the local authorities. This was done on the basis that the set consultation durations were sufficient to consider and respond to the materials, but the Applicant recognised that it takes local authorities additional time to get their responses approved for issue through governance procedures (e.g. committees).
- 5.2.3 Feedback from Local Authorities on consultation durations was provided during the process of developing the statutory and non-statutory Statements of Community Consultation, and examples of the changes which were made to respond to concerns are as follows:
- a. Community Impacts Consultation:
    - i. a request was made by Dartford Borough Council, Gravesham Borough Council, London Borough of Havering, Thurrock Council for the consultation to be longer than the initially proposed six weeks, particularly if new information was significant. In light of feedback received, the consultation was extended from six to eight weeks - 14 July to 8 September 2021. This was considered an appropriate amount of time for people to review and respond.
  - b. Local Refinement Consultation:
    - i. Essex County Council, Gravesham Borough Council, London Borough of Havering, Kent County Council and Thurrock Council expressed concerns that a four week consultation was insufficient. As a result the

consultation period was extended to 5½ weeks, from 12 May to 20 June, and an additional week's governance period was offered to Local Authorities to assure their responses; and

- ii. Brentwood Borough Council, Gravesham Borough Council, Kent County Council, London Borough of Havering and Thurrock Council expressed concerns that the proposed consultation ran over the pre-election period and Easter. The Applicant changed its plans for the consultation, originally planned to run from 24 March to 22 April 2022, rescheduling to start on 12 May, following the end of the pre-election period on 5 May.

### **Concerns that events were not held in some affected communities**

5.2.4 Where physical events were held, the locations were selected to provide access to the communities impacted. Where the consultations focussed on changes, this meant that events were targeted to communities that would be impacted by the changes rather than by the proposals as a whole, using information from the assessments and experience of local concerns from previous consultations. During the consultations, some local authorities made further requests for additional events and, where appropriate, these were added.

5.2.5 Changes made to the consultation proposals include:

a. Statutory Consultation

- i. Dover District Council requested an event, and so the Applicant added an additional event at Dover town hall.

b. Supplementary Consultation

- i. Thurrock Council requested an event in Stanford-Le-Hope and so the Applicant added an additional mobile information centre event
- ii. Essex County Council suggested use of Brentwood Borough Council offices for deposit locations and so Brentwood Library was added as a deposit location
- iii. London Borough of Havering suggested that Romford Library should be considered for deposit locations and so this was done.

c. Design Refinement Consultation

- i. Thurrock Council requested an increase in deposit locations, so East Tilbury Post Office was added upon request from a community group following the lack of available venues in the area due to COVID-19 restrictions.



## **Concern that the approach for each consultation did not build on lessons learned from previous consultations**

- 5.2.6 The Applicant prepared the plans for each consultation building on the learning from previous consultations, going back to the Route Consultation in 2016. This learning covered a variety of different areas including:
- a. Selection of locations – particularly in consideration of which locations received higher footfall and so were useful to increase engagement.
  - b. Event management – understanding where to focus attention to provide communities the technical teams to support effective engagement.
  - c. Accessibility and vulnerable communities – learning which communities benefited from additional support, including the provision of BSL interpreters, and holding focussed community events such as at Gammonfields Way travellers' site.
  - d. Development of online access – this was of particular importance during the COVID-19 pandemic where events could not be held. Learning in this area extended from the distribution of physical materials to the development of new online platforms such as the GIS system. This provision was continued into later consultations, partly to support the vulnerable who may not have chosen to attend physical events, and also because of the positive feedback received on the engagement these platforms enabled.
  - e. Material content – the development of the consultation materials, in particular from the Community Impacts Consultation, was strongly informed by advice and feedback from the Local Authorities.

## **Concern that it was unclear how the consultation had been informed by the Equalities Impact Assessment, and did not do enough to provide access during the COVID-19 pandemic**

- 5.2.7 Accessibility considerations, including ensuring inclusiveness for vulnerable groups were an important consideration during the development of the consultation plans. People with different protected characteristics may have different needs, priorities and experiences, which can impact on how they may interact with the consultation process. Accessibility in the broadest sense was a key factor throughout the planning of all consultations. Venues used for Public Information Events were fully accessible, with Building Accessibility Checklists completed as part of the assessment of venue suitability. Accessibility was not just limited to the physical attributes of the venues; at each venue the following was available if appropriate:
- a. A portable induction loop.
  - b. A British Sign Language (BSL) signed event (provided on request).
  - c. An easy-to-read version of the consultation guide.

- d. Magnifiers for the central maps.
- e. An online disability awareness training course was provided for staff.

- 5.2.8 Experience from previous consultations was used to identify key interventions, such as specific engagement activities with communities such as the community at the Gammonfields Way Travellers site. Local authority advice was sought during the planning phase to improve accessibility, and the Applicant was advised that the plans were aligned with best practice. More information on how the approach to consultation considered equality, diversity and inclusion is provided in Appendix B of the Health and Equalities Impact Assessment (Application Document 7.10).
- 5.2.9 During the COVID-19 pandemic it was not possible to hold physical events and there was reduced access to deposit locations. National Highways carefully reviewed the updated guidance provided by the government, and, developed a digital first strategy. This was supplemented with the opportunity to request hard copies of the materials, and a telephone call in. Local authorities were engaged in the development process to check that National Highways plans for consultation were not missing opportunities for engagement that other organisations were using.
- 5.2.10 The initial announcement of restrictions due to COVID-19 took place near the end of the Supplementary Consultation. As a result of this, National Highways had to cancel four consultation events. To support people responding, the Supplementary Consultation was extended by eight days, and a telephone service was introduced and publicised for members of the public who had planned to go to the cancelled events. For following consultations, a digital first approach was taken, providing for online engagement, the use of telephone contact and the distribution of physical materials by post. This provided an engagement that was aligned with best practice throughout the period. Experience from each consultation helped to develop the approach, and the Applicant refined the digital first approach over the period to try to improve the effectiveness of the engagement, for example building on the interactive map first used and well received at Design Refinement Consultation for the later consultations. When restrictions eased, face to face events were reintroduced, but the digital first protocols were retained to ensure access for people who chose not to attend in person.

## 5.3 Consultation materials

### Concern that the sequential consultation focussing on local changes resulted in confusion on the nature of the whole project and the cumulative impacts

- 5.3.1 Due to the scale and complexity of the project, it has always been recognised that each round of consultation (irrespective of its scope) should also be used to present the latest project design in full, to avoid confusion over the nature of the evolving proposals. As a result, each consultation included a complete suite of map books, including General Arrangements, Land Plans and Engineering Plans, as well as large scale plans covering the whole route. This provided a comprehensive view of the project, to allow people to understand the

cumulative updated proposals as set out at that consultation. At the Design Refinement Consultation, this was supplemented with an online interactive map, which received strong public support as a way of understanding the proposals, as set out in the public responses to the feedback on the quality of information at each consultation, presented in the relevant chapters of the Consultation Report (Application Document 5.1). As a consequence, this was updated and enhanced interactive maps were provided at subsequent consultations. To further support understanding a digital flythrough of the proposals was provided during the Statutory Consultation, and during the Community Impacts Consultation flythroughs were provided showing the construction proposals and visualisations 15 years after road opening.

- 5.3.2 The changes proposed to the project since Statutory Consultation, along with external changes such as updated standards, guidance and assessment methodology, have inevitably meant that the assessment of impacts has evolved. To address this, each consultation was supported by the provision of environmental information (Environmental Information updates at Supplementary Consultation and Design Refinement Consultation, and within the documentation as appropriate at the Community Impacts Consultation and Local Refinement Consultation). The environmental information provided at each consultation confirmed the effect of changes on the preliminary assessment conclusions set out in the PEIR and, where relevant, provided any updates to those preliminary conclusions to ensure that consultees were informed of the latest position throughout the pre-application process.

### **Concern that the route options were not revisited at later consultations**

- 5.3.3 Following the preferred route announcement by the Secretary of State in 2017, the project has presented information on the developing proposals for the selected route. This is in accordance with the guidance, which states that the applicant should undertake statutory consultation on a preferred option. The Applicant recognised that there would be interest in whether the work undertaken to identify the preferred route, and to discount other routes, was still valid following the development in the proposals following the preferred route announcement. An Option re-appraisal was undertaken and set out in the Approach to Design Construction and Operation, provided during Statutory Consultation and included as Appendix M of the Consultation Report (Application Document 5.1).

### **Concern that the Preliminary Environmental Information Report had not been updated**

- 5.3.4 The project remains fundamentally the same as that presented at Statutory Consultation, where the preliminary environmental information was set out in the Preliminary Environmental Information Report (PEIR). The impacts, as set out in the PEIR, remain a fair and accurate representation of the nature of the impacts of the project.
- 5.3.5 The changes proposed to the project since Statutory Consultation, along with external changes such as updated standards, guidance and assessment methodology, have inevitably meant that the assessment of impacts has evolved. To address this, each consultation was supported by the provision of

environmental information (Environmental Information updates at Supplementary Consultation and Design Refinement Consultation, and within the documentation as appropriate at the Community Impacts Consultation and Local Refinement Consultation). The environmental information provided at each consultation confirmed the effect of changes on the preliminary assessment conclusions set out in the PEIR and, where relevant, provided any updates to those preliminary conclusions to ensure that consultees were informed of the latest position throughout the pre-application process.

- 5.3.6 Following the withdrawal of the application in October 2020, the Applicant prepared a proposal for a further consultation, the Community Impact Consultation. This proposal set out a consultation focussed on the impacts of construction on the community, and the associated controls. This proposal was shared with local authorities who provided feedback that local communities needed more information on how they would be impacted by the project in operation as well. As a result, the scope of the consultation was developed to provide localised presentation of the impacts, and the scope was extended from the earlier proposals to provide information on operational as well as construction impacts. Ward scale assessments were provided for areas that would be directly impacted by construction, as well as wards adjacent to the existing Dartford Crossing which were included to show how the proposals would benefit the communities there. This meant that wards located away from the project, which would only experience impacts associated with changing traffic flows, did not have ward summaries.

**Concern that limited feedback had been provided to demonstrate how the Applicant had considered responses to earlier consultations**

- 5.3.7 The Guidance states “*It is good practice that those who have contributed to the consultation are informed of the results of the consultation exercise; how the information received by applicants has been used to shape and influence the project; and how any outstanding issues will be addressed before an application is submitted to the Inspectorate.*”
- 5.3.8 Feedback has been provided throughout the pre-application process to clarify how responses to the consultation has shaped the development of the scheme, however, concerns were raised by local authorities at the submission of the DCO application (subsequently withdrawn) in October 2020 relating to the “*adequacy of informing those who have contributed to the consultation of the results of the consultation exercise, how the information received by applicants has been used to shape and influence the project*”.
- 5.3.9 Following this feedback and advice from the Planning Inspectorate, National Highways considered carefully the Guidance on the pre-application process, which further states “*The consultation report may not be the most appropriate format in which to respond to the points raised by various consultee groups and bodies. Applicants should therefore consider producing a summary note in plain English for the local community setting out headline findings and how they have been addressed, together with a link to the full consultation report for those interested*”. National Highways included a comprehensive feedback document titled “You Said, We Did” in the Community Impacts Consultation, setting out the responses and the changes made following the three preceding consultations. An additional document was then published in spring 2022

setting out the response to the Community Impacts Consultation, and a further one has been provided on the findings of the Local Refinement Consultation. To support this, an online storymap setting out how the project has been developed from Statutory Consultation to the final proposals set out in the application through feedback from the public consultations and stakeholders has been made available. These documents are targeted at the public and so are written with that community in mind, in accordance with the guidance.

- 5.3.10 Consultees were asked in the Community Impacts Consultation whether they “*support or oppose how issues and suggestions about the Lower Thames Crossing have been addressed following earlier rounds of public consultation?*”. A total of 2,562 consultees answered this question, 49% supported or strongly supported, while a further 16% were neutral. A total of 29% opposed or strongly opposed, with the remaining 6% stating “*Don’t Know*”.

### **Concern that specific ward summaries were not provided for areas in Medway**

- 5.3.11 Following the withdrawal of the application in October 2020, the Applicant prepared a proposal for a further consultation, the Community Impact Consultation. This proposal set out a consultation focussed on the impacts of construction on the community, and the associated controls. This proposal was shared with local authorities who provided feedback that local communities needed more information on how they would be impacted by the project in operation as well. As a result, the scope of the consultation was developed to provide localised presentation of the impacts, and the scope was extended from the earlier proposals to provide information on operational as well as construction impacts. Ward scale assessments were provided for areas that would be directly impacted by construction, as well as wards adjacent to the existing Dartford Crossing which were included to show how the proposals would benefit the communities there. This meant that wards located away from the project, which would only experience impacts associated with changing traffic flows, did not have ward summaries.
- 5.3.12 The information on impacts in these areas, which included wards in Medway, was set out in the Operational Update document, which was included in the consultation, and which provided information on traffic flows and environmental impacts associated with the change in traffic.

### **Concern that the content of the consultation material was insufficient to allow for informed responses**

- 5.3.13 Public consultations need to provide clarity on the proposals, and sufficient information on the impacts to allow the public to undertake informed consideration and prepare suitable responses. Equally, they need to be undertaken at a time when proposals are still at a formative stage, to allow the consultation to influence the proposals. As a result, it is recognised in the guidance that the full environmental assessments may not be available at the time of consultation, and that it is appropriate to consult on preliminary environmental information. Importantly, the concept of “preliminary environmental information” is embedded in the statutory regime itself, which plainly recognises a distinction between preliminary environmental information and a full environmental statement submitted with an application.



- 5.3.14 The project remains fundamentally the same as that presented at Statutory Consultation, where the preliminary environmental information was set out in the Preliminary Environmental Information Report (PEIR). The impacts, as set out in the PEIR, remain a fair and accurate representation of the nature of the impacts of the project.
- 5.3.15 The changes proposed to the project since Statutory Consultation, along with external changes such as updated standards, guidance and assessment methodology, have inevitably meant that the assessment of impacts has evolved. To address this, each consultation was supported by the provision of environmental information (Environmental Information updates at Supplementary Consultation and Design Refinement Consultation, and within the documentation as appropriate at the Community Impacts Consultation and Local Refinement Consultation). The environmental information provided at each consultation confirmed the effect of changes on the preliminary assessment conclusions set out in the PEIR and, where relevant, provided any updates to those preliminary conclusions to ensure that consultees were informed of the latest position throughout the pre-application process.
- 5.3.16 Following the withdrawal of the application in October 2020, the Applicant prepared a proposal for a further consultation, the Community Impact Consultation. This proposal set out a consultation focussed on the impacts of construction on the community, and the associated controls. This proposal was shared with local authorities who provided feedback that local communities needed more information on how they would be impacted by the project in operation as well. As a result, the scope of the consultation was developed to provide localised presentation of the impacts, and the scope was extended from the earlier proposals to provide information on operational as well as construction impacts. Ward scale assessments were provided for areas that would be directly impacted by construction, as well as wards adjacent to the existing Dartford Crossing which were included to show how the proposals would benefit the communities there. This meant that wards located away from the project, which would only experience impacts associated with changing traffic flows, did not have ward summaries.
- 5.3.17 The Community Impacts Consultation (2021) drew upon assessment information contained in the withdrawn DCO application (autumn 2020) and, to the knowledge of the Applicant, has raised the bar for a NSIP project of this scale, in terms of the granularity of information and localised presentation of impacts through the provision of assessments at a ward scale. The quality and quantity of information provided demonstrably met the standard of “preliminary environmental information”, providing sufficient detail for the local communities to provide informed responses.

**Concern that the extensive content of the consultation made it difficult to access (specifically with regard to the Community Impacts Consultation)**

- 5.3.18 Careful consideration was given to the accessibility of the material to the public. Consultation materials were developed to allow people to access information at both a high and detailed level, depending on their preference and interest. Easy

read guides were prepared, and information was available in other languages including braille.

- 5.3.19 The Applicant considers that the Community Impacts Consultation delivered on this objective. Thurrock Council’s view that the level of information provided as part of the Community Impacts Consultation was “excessive” has not been substantiated and is not agreed. Furthermore, in circumstances where the Council has sought to characterise the content presented for other consultations as “inadequate”, the Applicant considers that this only serves to highlight the significant challenges it has encountered in developing and delivering consultations with the Council’s buy-in.

### **Concern that full assessments of traffic, economics, air quality, noise and health impacts had not been provided**

- 5.3.20 The Applicant has maintained a long-term programme of engagement alongside the formal consultations, holding regular meetings with stakeholders and sharing additional information (i.e. beyond that published in formal consultations). The Guidance states “Applicants should engage with them [Local Authorities] as early as possible to ensure that the impacts of the development on the local area are understood and considered prior to the application being submitted to the Secretary of State.”. It follows by setting out: “Local authorities will be able to provide an informed opinion on a wide number of matters, including how the project relates to Local Plans. Local authorities may also make suggestions for requirements to be included in the draft Development Consent Order. These may include the later approval by the local authority (after the granting of a Development Consent Order) of detailed project designs or schemes to mitigate adverse impacts. It will be important that any concerns local authorities have on the practicality of enforcing a proposed Development Consent Order are raised at the earliest opportunity”.
- 5.3.21 Technical information, including developing designs and construction plans, environmental assessment methodologies and outcomes, and mitigation proposals, was shared with local authorities in the period 2017 to 2022 as the plans for the project developed.
- 5.3.22 The Applicant considers that the project proposals and the forecast impacts of the project have been clearly set out for the Local Authorities, both through consultation and the sharing of information through technical engagement. Discussions with the Local Authorities have helped form the mitigation proposals, which have been shared as they have been developed.
- 5.3.23 Selected Local Authorities, including Thurrock Council, London Borough of Havering, Gravesham Borough Council and Medway Council have requested that the final assessments of traffic, air quality, noise and health should be shared prior to the submission of the application. There is no requirement in either legislation or guidance to provide finalised assessments to stakeholders in advance of the submission of the DCO application. National Highways consider that through the engagement processes set out above, the local authorities and other stakeholders have been fully and effectively engaged on the proposals and the forecast impacts, and have had extensive opportunity to feed into the proposals in accordance with the guidance. National Highways has responded to the feedback, by advising of changes or where no change

has been made by advising on the reasons. This process of engagement has met the requirements set out in the Planning Act 2008 in both word and intent of the guidance.

### **Concern that information sharing relating to traffic modelling was not complete**

- 5.3.24 Thurrock Council has identified a specific concern regarding the level of engagement undertaken in relation to traffic modelling. Extensive engagement on these matters has been undertaken, setting out clearly the project proposals and the impacts. This has enabled these local authorities to prepare positions on these matters, which are set out in the relevant Statement of Common Ground documents. In a number of cases, the local authorities have asked for additional information to support them in developing their position, and the Applicant has worked to provide this. Following requests from Thurrock Council the following additional models have been developed and shared:
- A local junction model of Orsett Cock junction, reflecting local peak hours
  - A local junction model of Manorway junction
  - Four different models of route alternatives, incorporating the Tilbury Link Road and varying connectivity at the A13 junction

### **Concern at the limited information shared on selected methodologies (Nitrogen deposition on ecological sites)**

- 5.3.25 Kent County Council have identified a specific area for further engagement, in relation to the impacts of nitrogen deposition on ecological sites. Engagement on these matters has been conducted, setting out clearly the project proposals and the impacts. This has enabled these local authorities to developed informed positions on these matters, which are set out in the relevant Statement of Common Ground documents. In a number of cases, the local authorities have asked for additional information to support them in developing their positions, and the Applicant has worked to provide this.
- 5.3.26 The site selection methodology for nitrogen deposition has been provided to Kent County Council, to support their understanding of the development of the proposals. The finalised assessments are set out in Chapter 8 of the Environmental Statement (Application Document 6.1).

### **Concern that finalised control documents had not been shared**

- 5.3.27 Selected Local Authorities, including Thurrock Council, London Borough of Havering, Gravesham Borough Council and Medway Council have requested that the final versions of selected application documents should be shared prior to the submission of the application, including the Control Plan documents (see the Code of Construction Practice, First iteration of Environmental Management Plan (Application Document 6.3) for details of the Control Plan). There is no requirement in either legislation or guidance to provide final application documents to stakeholders in advance of the submission of the DCO application. Notwithstanding, it should be noted draft documents were shared at earlier points in the process and the feedback received from the local



authorities has been considered and incorporated into the documents. National Highways consider that through the engagement processes set out above, the local authorities and other stakeholders have been fully and effectively engaged on the proposals and the forecast impacts, and have had extensive opportunity to feed into the proposals in accordance with the guidance. National Highways has responded to the feedback, by advising of changes or where no change has been made by advising on the reasons. This process of engagement has met the requirements set out in the Planning Act 2008 in both word and intent of the guidance.

### **Concern that SoCGs had only recently been shared and were still developing**

- 5.3.28 The Applicant has been working to develop draft Statements of Common Ground with key stakeholders, including local authorities. Multiple drafts have been shared and discussions have been held over the content. Even accounting for the scale of the Project, the Applicant considers that the pre-application progress made on Statements of Common Ground compares favourably when benchmarked against both law and guidance on DCOs, and other DCO applications. It is relevant to note that draft Statements of Common Ground are not mandatory application documents, and not formally a “required” part of the process until the first relevant deadline set for the examination stage. This leaves sufficient time for these documents to continue to develop, reflecting the submitted application to inform the examination process.

### **Concern that a large number of issues remain unresolved**

- 5.3.29 The Applicant has undertaken extensive engagement with the Local Authorities, ensuring that the proposals are clearly understood, including the associated impacts, mitigations and controls. The Applicant considers that the project proposals and the forecast impacts of the project have been clearly set out for the Local Authorities, both through consultation and the sharing of information through technical engagement. While the Applicant has worked hard to accommodate the concerns of the Local Authorities, there remains a difference in view over the overarching approach to elements of the DCO.
- 5.3.30 Some Local Authorities would like to see the design and construction proposals developed to a level of detail that is not proportionate to the current stage of development. The Applicant maintains that certain matters can only be developed and resolved during the detailed design and construction planning process that would be triggered by the grant of the DCO. The application, through the Control Plans, has been designed to deliver a framework that enables the progressive development of the project in accordance with normal precedent. This framework is secured directly in the draft Development Consent Order (Application Document 3.1) and via the Schedule 2 Requirements within the draft Development Consent Order (Application Document 3.1) through the Control Plan documents (see the Code of Construction Practice, First iteration of Environmental Management Plan (Application Document 6.3) for details of the Control Plan).
- 5.3.31 The Applicant will continue to engage with the Local Authorities during the next phase in the process, but the Applicant considers that the requirement and intent of the pre-application phase has been met.

- 5.3.32 A comprehensive overview of the engagement with stakeholders is provided in the Statement of Engagement (Application Document 5.2).

### **Concern at a lack of consultation on changes at the construction activities at Church Lane**

- 5.3.33 The Applicant made amendments following the Community Impact Consultation to the proposals for siting of the M25 compound near Church Lane. These changes were discussed directly with the persons with an interest in the land, as set out in Chapter 9 of the Consultation Report (Application Document 5.1), but not included in the consultation materials shared with the public during the Local Refinement Consultation. Concern was raised by the London Borough of Havering that this should have been consulted more widely, and as a result the Applicant consulted on the change through conducting a targeted engagement activity with local residents, providing formal notification and a 28 day response period, as set out in Chapter 9 of the Consultation Report (Application Document 5.1).

### **Suggestion that a further Statutory Consultation should be held**

- 5.3.34 On the issue of whether re-consultation is required, the Guidance states “where proposals change to such a large degree that what is being taken forward is fundamentally different from what was consulted on, further consultation may well be needed”. The guidance goes on to say that in the event that an application changes to such a large degree that the proposals could be considered a new application, then applicants should undertake further re-consultation on the new proposals, and, allow at least 28 days for consultees to respond. Guidance is also provided on where an application changes materially, but only to a small or localised degree. In such circumstances, it is not necessary for an applicant to undertake a full re-consultation. Instead, it is recognised that a non-statutory, targeted consultation is appropriate.
- 5.3.35 As well as providing comprehensive information into each consultation, the process for each consultation aligned with that adopted for the statutory consultation, including the undertaking of appropriate noticing and promotion, the provision of different means for understanding and engaging with the information (i.e. online, telephone, physical distribution etc.) and was carried out for a duration that reflected the nature of the matters presented for consultation. The Guidance indicates that consultation for an NSIP can be a combination of both statutory and non-statutory consultations, and that the test of adequacy should focus on the substantive effectiveness of the process. The statutory consultation for the Lower Thames Crossing, along with the following subsequent consultations on changes and the community impacts, comprehensively set out the proposals and allowed for informed and thorough responses. The consultation process, in terms of notifications and duration, complied with the statutory requirements for each consultation, and as such the Applicant considers that the requirements under Section 42 of the Planning Act 2008 to consult about the proposed application has been met, and no further Statutory Consultation is required.

## 6 Conclusion - Compliance of the consultation with the requirements of the Planning Act 2008

- 6.1.1 Within the Consultation Report (Application document 5.1) the Applicant has set out how the process of consultation has complied with the Planning Act 2008, and the associated regulations and guidance. This statement supports that document by providing specific responses to concerns raised by the Local Authorities in September 2022.
- 6.1.2 On the issue of whether re-consultation is required, the Guidance states “where proposals change to such a large degree that what is being taken forward is fundamentally different from what was consulted on, further consultation may well be needed”. The guidance goes on to say that in the event that an application changes to such a large degree that the proposals could be considered a new application, then applicants should undertake further re-consultation on the new proposals, and, allow at least 28 days for consultees to respond. Guidance is also provided on where an application changes materially, but only to a small or localised degree. In such circumstances, it is not necessary for an applicant to undertake a full re-consultation. Instead, it is recognised that a non-statutory, targeted consultation is appropriate.
- 6.1.3 As well as providing comprehensive information into each consultation, the process for each consultation aligned with that adopted for the statutory consultation, including the undertaking of appropriate noticing and promotion, the provision of different means for understanding and engaging with the information (i.e. online, telephone, physical distribution etc.) and was carried out for a duration that reflected the nature of the matters presented for consultation. The Guidance indicates that consultation for an NSIP can be a combination of both statutory and non-statutory consultations, and that the test of adequacy should focus on the substantive effectiveness of the process. The statutory consultation for the Lower Thames Crossing, along with the following subsequent consultations on changes and the community impacts, comprehensively set out the proposals and allowed for informed and thorough responses. The consultation process, in terms of notifications and duration, complied with the statutory requirements for each consultation, and as such the Applicant considers that the test of adequacy has been met.

## References

Department for Communities and Local Government (2015). Planning Act 2008 –  
Guidance on the pre-application process

## Glossary

Term	Abbreviation	Explanation
<b>Application Document</b>		In the context of the Project, a document submitted to the Planning Inspectorate as part of the application for development consent.
<b>Construction</b>		Activity on and/or offsite required to implement the Project. The construction phase is considered to commence with the first activity on site (e.g. creation of site access), and ends with demobilisation.
<b>Development Consent Order</b>	<b>DCO</b>	Means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects (NSIP) under the Planning Act 2008.
<b>Development Consent Order application</b>	<b>DCO application</b>	The Project Application Documents, collectively known as the 'DCO application'.
<b>Environmental Statement</b>	<b>ES</b>	A document produced to support an application for development consent that is subject to Environmental Impact Assessment (EIA), which sets out the likely impacts on the environment arising from the proposed development.
<b>Highways England</b>		Former name of National Highways.
<b>National Highways</b>		A UK government-owned company with responsibility for managing the motorways and major roads in England. Formerly known as Highways England.
<b>Nationally Significant Infrastructure Project</b>	<b>NSIP</b>	Major infrastructure developments in England and Wales, such as proposals for power plants, large renewable energy projects, new airports and airport extensions, major road projects etc that require a development consent under the Planning Act 2008.
<b>Operation</b>		Describes the operational phase of a completed development and is considered to commence at the end of the construction phase, after demobilisation.
<b>Planning Act 2008</b>		The primary legislation that establishes the legal framework for applying for, examining and determining Development Consent Order applications for Nationally Significant Infrastructure Projects.

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