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(By Email Only)

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Your Ref TR010032
Our Ref 22/LTC/AoCC#1
Date: 16th November 2022

Dear Eleanor,

**Planning Act 2008 (as amended) – Section 55
Application by National Highways for an Order Granting Development Consent
for the Lower Thames Crossing project.
Adequacy of consultation request**

Thank you for your letter dated 01 November in which you ask Essex County Council (ECC) for representations on the adequacy of consultation for this DCO submission to enable the Planning Inspectorate to make a considered and informed decision as to the Adequacy of Consultation. You asked that our comments are provided by the 16th November 2022 and this response meets this deadline.

Our comments are centred around the pre application stage of the DCO process and as requested gives ECC's considered opinion as to whether Lower Thames Crossing (LTC), as the Applicant, has complied with the following duties under the Planning Act 2008:

- Section 42 – Duty to consult
- Section 47 – Duty to consult the local community
- Section 48 – Duty to publicise

In producing this response ECC has considered the Consultation Report (5.1 Consultation Report) submitted by LTC in support of the application. This sets out how LTC have in their professional opinion, complied with the DCLG (2015) guidance on the pre-application process.

Section 42

Section 42 of the Planning Act 2008 prescribes who should be consulted on the proposal. ECC is satisfied that NH has correctly identified the parties to be consulted. NH have identified in their Consultation Report how they have complied with the requirements of this section, and to the best of ECC's knowledge NH have complied with their duty to consult those parties.

Section 47

Section 47 of the Planning Act 2008 obliges developers to prepare a Statement of Community Consultation (SoCC) in consultation with the relevant Local Authorities, publish that SoCC and then undertake statutory consultation in conformity with that statement

ECC responded to draft SoCC in Q2/3 2018 prior to its formal publication on 10 October 2018. The Consultation Report summarises our comments and ECC is satisfied that our comments were taken into account.

Statutory consultation commenced on the 10th October 2018 for a period until to 20th December 2018, which ECC responded to, and our comments on the same are within the Consultation Report.

Post 2018 LTC has carried out some additional consultations as set out below:

- Supplementary Consultation between 29th January 2020 and 2nd April 2020.
- Design Refinement Consultation between 14th July 2020 and 12th August 2020.
- Community Impacts Consultation between 14th July 2021 and 8th September 2021.
- Local Refinement Consultation between 12th May 2022 and 20th June 2022.

ECC responded to all consultation requests and remained actively engaged with LTC, partner Authorities and stakeholders throughout the pre-engagement process.

With regard to the different non-statutory and statutory consultation which have occurred over time ECC has no reason to doubt that LTC undertook the consultation

in a way that was in accordance with the SoCC and accordingly has complied with the duties set out in Section 47 of the Planning Act.

It should be noted that the statutory consultation took place at least in part during a time when restrictions brought on by the Covid 19 pandemic were in place. Whilst this presented some challenges which ECC noted at the time a variety of consultation methods were used to help ensure interested parties were able to take part, including novel approaches such as a virtual exhibition space, in common with other NSIP statutory consultations which were taking place at the time.

Section 48

Section 48 of the Planning Act 2008 obliges developers to publicise their proposals by means of notices in local and national newspapers. ECC has no reason to doubt that LTC published the required notices and that the content of those notices complied with the requirements set out in the regulations, and therefore LTC complied with their duty to publicise under this section of the PA 2008.

Taking this into account ECC's view is that LTC has carried out adequate pre-application consultation on the DCO application in line with Sections 42, 47 and 48 of the Planning Act 2008. Notwithstanding this ECC does have concerns with several aspects of the consultation, which we have set out below.

Section 49 - Duty to take account of responses to consultation and publicity.

Although not required by the Planning Act, it is considered that it would have been helpful if LTC had provided a summary of the consultation findings to stakeholders and the public following each round of consultation. A 'Project Update' document was published in July 2019, following the Statutory Consultation, but this provided no indication of how the design had been influenced. This made it difficult for respondents to see that their feedback had been listened to and, where appropriate, changes had been made to the scheme proposals as a result of the consultation.

Following feedback from Local Authorities, it was positive that the Applicant published a '*You Said, We Did*' document, with an additional update being provided as part of their local refinements consultation in 2022. LTC then published a second '*You Said, We Did*' update as these documents focused on the main feedback themes received and how responses had or had not in general terms influenced the latest proposals. The documents as submitted in this DCO are lengthy and complex to mirror the size of the scheme, hence this at least in part explained the evolution of the scheme in light of consultees comments.

One of the tests of Adequacy of Consultation is, in the opinion of ECC, whether sufficient evidence has been given to consultees in order for informed decisions to be

made. ECC consider that on balance, and with LTC, itself a complex proposal which has undergone a series of route changes and design refinements, that this has been passed.

It is also noted that since December 2018 when the Statutory Consultation for the scheme closed the entirety of the scheme has never been consulted on. Due to the schemes size and impact, and by reason of the time it has been to get to formal submission. it is our view that the scheme would have benefited from a route wide consultation which takes into account all the changes and routing refinements as proposed post 2018 in one easy to understand consualtion. However, this in itself does not mean that the consultation which did take place was flawed.

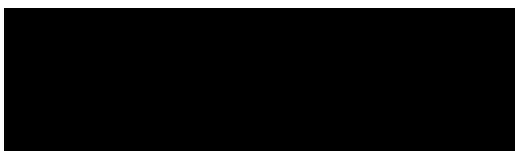
Other observations

Whilst a number of consultations have taken place on the scheme, the magnitude of this NSIP proposal is hugely significant, and will have a lasting impact on the environment and local communities it directly impacts. Although discussions on the scheme commenced before statutory consultation in 2018, it is only recently that detailed information including the sharing of traffic forecasting data across the entire route of the scheme has been shared. As a result, stakeholders have been able to engage meaningfully with LTC on the impacts of the scheme, it's point of contention, and the changes believed to be necessary, but only in some circumstances since that date.

ECC has, prior to submission, been able to work with LTC to formulate a comprehensive Statement of Common Ground.

However, that does not conclude that all issues between LTC and ECC are agreed. In addition it is clear that, in our view, that certain key stakeholders, not least of which is Thurrock Council who host the majority of the route on the northern side of the Thames, have significant outstanding concerns about the scheme, including but not limited to the functional and operation of the Orsett Cock roundabout, and we believe material changes are in some cases required.

Yours sincerely,



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