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Customer
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Applicant

Your Ref:

Our Ref: TR010032

Date: 21 March 2023

Dear Sir/Madam,

Application by National Highways for an Order Granting Development Consent for the Lower Thames Crossing

Planning Act 2008 – Section 89(3)

Procedural Decisions seeking comments from the Applicant on the Ministerial Statement and on a request to delay the Examination

Procedural Decision addressing proposed changes to the Application

This letter advises you of Procedural Decisions taken by the Examining Authority (ExA). All Procedural Decisions and all replies provided in response to matters raised by such decisions are published on the project website.

The ExA has decided to seek comments from the Applicant on two matters:

- A [Written Ministerial Statement by the SoST](#), made on 09 March 2023, announcing a two year rephasing to the construction funding for capital works in the proposed development; and
- A [request from Thurrock Council](#), made on 13 March 2023, seeking an extension to the pre-Examination period.

Following receipt of responses from the Applicant, the ExA will consider whether, and to what extent, to seek comments from Interested Parties.

The ExA also notes receipt of a [notification from the Applicant to submit a request for changes to the Application](#), made on 16 March 2023 and has decided to publish that request and set out its preliminary observations on procedure flowing from it.

Procedural Decisions¹

9. Request for the Applicant's initial comments on the SoST's Written Ministerial Statement of 09 March 2023

The ExA seeks the Applicant's view on the implications of the SoST's Written Ministerial Statement of 09 March 2023 as it relates to the Lower Thames Crossing project. In setting out its current position, the Applicant is asked to address the following matters.

- In his reasoning for the rephrasing, the SoST identified that: '*the development consent order process will be an important opportunity to consult further to ensure there is an effective and deliverable plan*'. Please describe the purpose, nature and timing of any activities you have in mind to conduct in order to address this and the stakeholders (if any) that you propose to engage.
- What, if any, do you consider to be the implications arising for the Application documents and for the Examination, including the timing of the commencement of the formal Examination period? In setting these matters out, please provide your reasoning.
- Taking your response to the above question into account, please indicate your initial view as to what, if any, implications a two-year rephrasing in the commencement of construction could have:
 - for the design of the proposed development and particularly whether any material change to the design is likely to be proposed as a means to address the rephrasing of funding;
 - for the requirement for land or rights, either permanently or temporarily to deliver the proposed development (Compulsory Acquisition and/ or Temporary Possession); and
 - for any security for the proposed development in the draft Development Consent Order (dDCO) or any other agreement or obligation.

Please accompany your responses with a summary table identifying the changes (if any) and the Application documents or additional submissions that would need to be changed. If any changes can be provided with the response to this question, then please do so; or alternatively add a column to the summary table recording when any change will be ready for submission. Please note the ExA's initial observation that material changes affecting a substantial proportion of the Application documents would need to be submitted before the commencement of Examination.

- Taking your response to the above questions into account, please also indicate your initial view as to what, if any, implications a two-year rephrasing in the commencement of construction could have:
 - for any time-sensitive base data that has informed the Environmental Statement [APP-138 to APP-155] (the ES);
 - for any time-sensitive forecasts or projections included in the ES; and
 - for the assessment conclusions recorded in the ES.

Please accompany your responses with a summary table structured to include a line for each change to the ES (if any), structured by chapter of the ES, with an overarching

¹ Procedural Decisions are recorded in a log [\[PD-007\]](#), to which the decisions made here have been added starting at number 9 (following on from the previous decisions that are already published).

conclusion on the need for any addendum to that chapter of the ES. If any changes can be provided with the response to this question, then please do so; or alternatively add a column to the summary table recording when any change will be ready for submission. Again, please note the ExA's initial observation that material changes affecting a substantial proportion of the ES topics and assessment conclusions would need to be submitted before the commencement of Examination.

The ExA requests this information by **Thursday 30 March 2023**.

10. Request for the Applicant's initial comments on Thurrock Council's written request of 13 March 2023

The ExA has considered the written request from Thurrock Council for an extension in the pre-Examination period in light of its [Procedural Decision 5 \[PD-005-5\]](#). The ExA did not call for the submission of this request. However, it does accept that circumstances that have arisen in the administration of Thurrock Council, combined with the decision taken by the SoST to rephrase the construction funding for the proposed development, both amount to an urgent need to seek procedural advice. The ExA has therefore decided to accept and publish this request from Thurrock Council.

The ExA seeks the Applicant's view on the implications of Thurrock Council's written request of 13 March 2023. In setting out its current position, the Applicant is asked to address the following matters:

- the request from Thurrock Council to extend the pre-examination period, including any implications of an extension on any Interested Party;
- the implications of a delay to the commencement of the Examination.

The ExA requests the response be submitted by **Thursday 30 March 2023**.

11. Notification from the Applicant of a request to make changes to the Application, submitted on 16 March 2023

The ExA also refers to a [notification of an intended request by the Applicant](#) to submit changes to the application for the proposed development, under [cover of a letter](#) dated 16 March 2023 (the notification of changes).

The ExA has considered the notification of changes in light of its [Procedural Decision 5 \[PD-005-5\]](#) and advice in the [Planning Inspectorate's Advice Note 16](#). It notes that the Applicant is providing what amounts to advance notice of some proposed changes, with a period of non-statutory consultation proposed to be undertaken, following which there will be a formal submission for determinations by the ExA of whether to accept the changes as material or non-material and how to examine them.

Having reviewed the notification of changes and agreed that it justifies an urgent need to seek procedural advice, the ExA has exercised discretion to accept and publish the notification of changes to commence that process. On review of the proposed procedure, the ExA is content that this complies with Advice Note 16. It reserves its judgment on the materiality of the proposed changes and the examination procedure to adopt until formal submission of the proposed changes is made.

If you have any questions on these matters, please do not hesitate to contact the case team using the contact details at the head of this letter.

Yours faithfully,

Rynd Smith

Rynd Smith
Lead Panel Member for the Examining Authority

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