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Contact: Bartholomew Wren
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Your ref: TR010032

Date: 11 May 2023

Dear Rynd

RE: Application by National Highways for an Order Granting Development Consent for the Lower Thames Crossing – Tonbridge & Malling Borough Council’s Written Submission ahead of the Programming Meeting

I write in response to the Rule 6 letter that was published by the Planning Inspectorate on 25 April 2023, regarding the programming meeting scheduled for 16 May. Given the short notice TMBC was not able to respond by 5 May as this coincided with last week’s bank holiday and Local Government elections, which drew upon the resource of key officers. TMBC does not intend to participate at the meeting given our limited officer resource and competing priorities at this time. I do however wish to make clear our position following the publication of previous representations submitted by TMBC on 4 April, and to inform your considerations.

Delegated Authority

I can confirm that following agreement by Members at the December 2022 meeting of the Council’s Cabinet, delegated authority was granted to me as Director of Planning, Housing and Environmental Health (and vis-à-vis lead officers) to formally engage with the Lower Thames Crossing Examination and related negotiations with LTC staff and consultants, to support the Borough Council’s efficient engagement in the process. Our Leader and Cabinet Member once appointed following the local election last week, will be briefed on the progress of the Examination as often as possible.

Planning Performance Agreement

The agreement of our PPA with National Highways has been paused pending the outcome of the procedural meeting. Similar to Kent County Council and Gravesham Borough Council, we have been requesting enhancement to the terms of our PPA to include:

- The preparation of the Local Impact Report
- Review of the application documents unrelated to matters within the Statement of Common Ground

- Preparation for, and attendance and participation at the Examination, including the preparation of expert witness submissions and responding to written questions raised by the Examining Authority during the Examination

National Highways should have been more aware of the capacity of all local authorities to prepare for and engage with the DCO Examination. A PPA could have been offered to and negotiated with TMBC during 2022, prior to the submission of the DCO application. Whilst this is now welcomed, we maintain that without additional resource the Council does not have sufficient officer capacity within the planning policy team to fully support our engagement, whilst maintaining the delivery of our Local Plan and related work. In any case once operational, funding via the PPA is secured in arrears and won't have any immediate impact upon the Council's capacity unless our representation is outsourced. This is not currently feasible given the terms of the draft PPA.

TMBC is aware that National Highways has agreed to enter into an enhanced PPA with Thurrock Council which covers the activities listed above, we consider that it is only fair that the same terms are offered to all host authorities affected by this application. Whilst we don't have the burden of an s114 notice, we do have a significant resourcing challenge within our planning service which is not unique.

Resourcing

It is currently intended that engagement in the DCO Examination and related negotiations with National Highways will be led by officers including Bartholomew Wren (Principal Planning Officer (policy) – lead contact) and Crispin Kennard (Environmental Protection Team Manager). Where possible we currently intend to engage in the Examination via written representations to minimise the demand upon officer time and will otherwise be carefully focusing our attendance at related meetings. Should the terms of the PPA be revised the Council may be able to appoint an external consultant to manage our engagement.

Statement of Common Ground and Local Impact Report

We are mindful that the Local Impact Report is a significant piece of work. It is intended that this focuses upon the matters that remain under discussion as identified in our SoCG. TMBC has yet to start preparing this given competing project demands. We will endeavour to make this a priority and meet the submission deadline of 18 July. However, an enhanced PPA is requested to assist us in preparing a comprehensive report within the required timescale.

It is not currently possible for TMBC to review fully all relevant parts of the DCO application given its extent, we are therefore less able to raise any further matters which may be of relevance/concern via an updated SoCG, and the content of the Local Impact Report. We are therefore trusting KCC as the lead transport and highway authority to ensure that matters for which they have statutory responsibility, and which have implications within Tonbridge & Malling borough are adequately addressed.

Transport Evidence

The Council continues to have significant concerns regarding the transport modelling assumptions which have informed the DCO as identified in our SoCG. These have informed numerous parts of the DCO application related but not limited to local traffic, air

quality and noise impacts. The Council's concerns are further compounded by the 2-year construction delay which defers the opening year of the project to 2032.

We are working closely with KCC colleagues to prepare our Local Plan transport modelling which will include an LTC sensitivity test, the output for which is not now anticipated until July. The wider network impacts study which has been commissioned by KCC, to more fully define a package of local highway mitigation is also ongoing. As such we don't yet have an evidence base available which can be used to check and challenge assumptions in the DCO application. Once available, we hope that we will be able to share the evidence with the ExA and for this to inform any updated written representations as the Examination timetable allows.

Draft Examination Timetable

We acknowledge that the ExA is under a duty to complete the Examination by the end of the period of six months beginning with the day after the close of the preliminary meeting, and that a draft timetable is included at Annex D of the Rule 6 letter. In Kent the school summer holiday is from 24 July to 31 August, we note that deadlines 2, 3 and the publication of the ExA's first written questions fall during this period which is not ideal given staff leave.

We are aware that the Applicant will be undertaking a non-statutory targeted consultation on the latest proposed changes to their application. Whilst this consultation is relatively minor in its nature, it will require TMBC to respond to further changes to the proposed local nitrogen deposition mitigation and provide a response within 30 days of the consultation being launched. This is being undertaken between 17 May and 16 June, meaning it will coincide with Procedural Deadlines B and C, along with the Preliminary Meeting Part 1. This will be followed shortly by the initial hearings which are scheduled from 20 June – 5 July.

Any further delay in the Examination would assist TMBC, to allow us time to resolve our PPA and review resourcing, as well as to complete the preparation of transport evidence which could inform the detail of our Local Impact Report and further representations.

I hope that our circumstances can be considered in advance of and during the programming meeting. Should you require any further information or clarification regarding these matters please do not hesitate to get in touch.

Yours sincerely



Eleanor Hoyle
Director of Planning, Housing and Environmental Health