

**Lower Thames Crossing**  
**Application by National Highways for an Order Granting**  
**Development Consent for the Lower Thames Crossing**  
**(Ref. No. TR010032)**

**Submission for Preliminary Meeting (PDB)**

**Thurrock Council**

**26 May 2023**

 **thurrock.gov.uk**

On behalf of **Thurrock Council**

## Introduction

- 1 This is submission of Thurrock Council ('the Council's') pursuant to Procedural Deadline B (PDB). It focuses upon the following matters, in accordance with agreements at the Programming Meeting or the ExA Agenda for the Preliminary Meeting:
  - a. **Agenda Item 4** – queries and recommendations about updating the Initial Assessment of Principal Issues
  - b. **Agenda Item 5** – changes that the Council considers need to be made to the draft Examination timetable, as set out in Annex D of the Planning Inspectorate ('PINS') letter dated 25 April 2023 and as explained at the Programming Meeting. A summary of the Council's reasons for requesting the this adjustment to the draft timetable are set out below.
  - c. **Agenda Item 6** – a miscellaneous matter requesting the ExA views and guidance.
  - d. The agreed **Joint Position Statement on the Planning Performance Agreement (PPA) Variation Agreement** between the Council and the Applicant, National Highways (NH), as set out below and as set out in the ExA document 'Action Points from the Programming Meeting, 16 May 2023' as Action Point No. 1 (EV-007).
- 2 The Council requests to be heard orally at the Preliminary Meeting to raise these concerns and all Council attendees/representatives will submit a completed 'Lower Thames Crossing Event Participation Form' as requested by the Examining Authority (ExA) by the specified deadline.

## Agenda Item 4 – Initial Assessment of Principal Issues

- 3 It is noted that the ExA published its Rule 6 Letter on 25 April and Annex B contained its 'Initial Assessment of Principal Issues' covering 3 pages and 15 main issues. Since then, the Council (by agreement with the ExA) submitted its Relevant Representation (RR) and its Principal Areas of Disagreement (PADs) Summary Statement on 4 May 2023.
- 4 In Annex B, the ExA does acknowledge that this is not 'a comprehensive or exclusive list' and that new issues may arise. Consequently, the Council respectfully requests that this Annex B is updated soon to reflect a detailed consideration of the Council's two submission documents. In particular, the Council invites the ExA to include the following as principal issues:
  - a. Costs and Disbenefits weighed against the Perceived Benefits;
  - b. Value for Money of the 'transport business case';
  - c. The achievement of the 7no. NH Scheme Objectives, particularly in relation to accommodating or not impacting the Council's planned/emerging Local Plan growth;
  - d. Impact on local roads, particular on key A13 junction and other important local roads and the absence of any proposed mitigation. These concerns about impacts on local roads and junctions are specified in items 33, 34, 36, 38, 45, 48 and 49 of the submitted PADs Summary Statement (and are also covered within the Applicant's submitted Statement of Common Ground (SoCG));
  - e. Consideration of alternative design for key elements of the LTC scheme;
  - f. Construction impacts on communities, Public Rights of Way (PRoWs), public transport and emergency services response times;
  - g. Adequate use of marine transport for the movement of materials and plant; and, the adequacy of the Framework Construction Travel Plan arrangements;
  - h. Health impacts and adequacy of the Health & Equalities Impact Assessment methodology and supporting technical data – it is currently noted only a sub-point under item 13 'Social, economic and land-use considerations' of Rule 6 Letter Annex B and the Council considers that it requires greater priority and importance;
  - i. Lack of accommodation by NH of the 56 Emergency Services recommendations;

- j. Significant issues with the Statement of Common Ground (SoCG) process;
- k. Lack of progress on and accommodation of many relevant Section 106 matters and the need to expedite further technical assessments to understand and quantify appropriate mitigation via the S106 Agreement;
- l. Inadequacy of compensation proposals for affected Council-owned land and property and impacted Thurrock residents;
- m. Council concerns over the DCO application not responding to current and emerging policy and guidance; and,
- n. Council concerns over the DCO application not responding to more recent data and methodological assumptions, particularly regarding traffic modelling and climate matters.

## Agenda Item 5 – Draft Examination Timetable

- 5 Given the Agreed Joint Position Statement for the PPA Variation above, the Council consider that the ExA can be confident that the Council will be fully engaged throughout the Examination and this therefore significantly reduces any risks that the requested adjustment to the draft timetable will be abortive. In addition, we can confirm that, since the Programming Meeting, the majority of the Council's consultant team are now engaged and working on reviews of the DCO application documentation that will feed in to the Local Impact Report (LIR).
- 6 Currently, on the draft timetable, the Examination is anticipated to commence formally after the Preliminary Meeting Part 2 on 20 June 2023. This means that Deadline 1 will currently be 18 July 2023 and will include the Council needing to complete its Local Impact Report ('LIR') and updated Statements of Common Ground amongst other documents by that deadline. It is respectfully submitted that the Examination does not commence until 5 September 2023 to allow the Council sufficient time to analyse the application documents and prepare the documents required for Deadline 1 (including but not limited to the LIR), i.e. a deferment of seven weeks for Deadline 1, which will also mean an appropriate adjustment to the Preliminary Meeting Part 2 and consequentially the end of the Examination. The reasons for the Council's request were explained in full at the Programming Meeting.
- 7 In addition, the Council requests that the proposed two Issue Specific Hearings on 21 June ('Project Definition') and 22 June ('draft Development Consent Order (dDCO)') are also deferred and re-timetabled accordingly. This is because the Council is unsure of the subject matter of the first therefore cannot prepare accordingly and is not likely to be fully prepared for the second Issue Specific Hearing. Furthermore, holding the Issue Specific Hearings prior to submission of the LIR means that the Council's position on each issue will not be adequately evidenced and formed – a point made within London Borough of Havering's Programming Meeting submission.
- 8 As the ExA will see from the Council's PADs Summary Statement submitted on 4 May 2023, there are 150 remaining Principal Areas of Disagreement between the Council and NH and the last four months of valuable time to narrow these issues has been lost because of the particular circumstances of the Council. By having sufficient time, following re-engagement of its consultant and wider team, to prepare fully for the Examination and to engage further with NH, the Council expects it will be able to focus on key issues and hopefully reduce the points in dispute (saving all parties time and money).
- 9 The Council acknowledges the risk of any prolonged period of uncertainty for local communities in the context of a scheme that has been in the public domain since 2009, but contends that this is a small effect compared with the concerns of a local community faced by a scheme that has had insufficient scrutiny by its elected representatives and others.
- 10 This would be the situation faced by the Council's local communities should an adjustment to the draft Examination timetable not be made as requested. As has been stated many times in consultation responses, the LTC current Order Limits affects approximately 10% of the Borough's total land area and Thurrock's community would be affected by approximately 70% of the scheme impacts. Whilst there are a number of other Interested Parties, the greatest proportion of those

affected would be adversely affected by a decision to proceed as currently proposed and the consequences of doing so. Furthermore, the additional 7 weeks would offer the Council approximately 4 months to complete the above-mentioned activities when other key stakeholders have already had over 6 months; and, it is subject to gaining Prior Approval by NH on all fees (including consultant fees) via the PPA Variation by an agreed date, to ensure work can commence on all tasks. On the basis of natural fairness, the Council contends that a 7-week deferment in Deadline 1 is fully justified.

- 11 Moreover, within the current draft timetable, Deadlines 2 and 3 fall within the school and public summer holiday period. This will make it more difficult and unreasonably practical for all parties, including the Council, to undertake the necessary reviews, provide the necessary documents and submissions and involve Council officers and Members. The requested extension of 7 weeks will avoid the Examination being undertaken during the six-week holiday period. Whilst it is acknowledged that other holiday periods will be included later, within the Examination period (including the much shorter Christmas and New Year periods), these will fall towards the end of the Examination and thus will not present the same difficulties as the Examination including the six-week summer break.
- 12 NH has commenced a further consultation on 17 May, finishing on 16 June with formal responses by 19 June. This spans the same timeframe that the Council is going to be required to prepare its LIR, review and update SoCG and other key documents. Adjusting, as requested, the start of the Examination will allow the Council to engage more fully in this new consultation response.
- 13 The Secretary of State for Transport and NH have already confirmed its intention to delay construction of the development by 2 years if consent is granted, and accordingly this should have no negative impact on the delivery timetable. In fact, it potentially releases any pressure on the Examination timetable. In addition, should the DCO be granted, the adjustment to the draft timetable may be beneficial to NH, as this proposed deferment occurs within its preparation period before the start of construction, which is now due to commence at a later date anyway, with final completion in 2032.
- 14 The Council considers that continuing with the current timetable would place the Council at an unfair disadvantage. It would also make the Examination process more time-consuming and difficult as the Council would have less time to fully develop its key documents, such as narrowing the unresolved issues in the draft SoCG and production of the LIR. This may impact on the ability of all parties to complete the Examination within 6 months. This would make the role of the ExA more difficult, time consuming and costly.

## Agenda Item 6 – Any Other Matters

- 15 There is a minor matter that the Council would ask for the ExA guidance on:
  - a. When the ExA rightly updates regularly the **Examination Library** it would be most helpful to have any changes clearly identified by a separate page on the front of the document itemising the changes, otherwise the Council needs to review every document in the list (over 600-700 documents) and then update its own records accordingly?

## Agreed Joint Position Statement on PPA Variation

### Joint Position Statement summarising status of Planning Performance Agreement (PPA) between the Applicant and Thurrock Council (26 May 2023)

#### Joint Position Statement

At the Programming Meeting on the 16 May 2023, Thurrock Council and the Applicant agreed to provide a 'Joint Position Statement' setting out the remaining work required to put in place a Planning Performance Agreement (PPA) Variation between the two parties. This is identified as Action Point No. 1 in the document Action points from programming Meeting 16 May 2023 [EV-007].

Following the Programme Meeting, further exchanges between Thurrock Council and the Applicant have taken place, to conclude discussion on the agreement.

This 'Joint Position Statement' has been prepared by the Applicant and Thurrock Council. Both parties are working together to ensure that the PPA Variation is in place as soon as possible and the terms have been agreed in advance of the Preliminary Meeting on 6 June 2023.

The Applicant and Thurrock Council have reached an agreement on the following aspects of the Planning Performance Agreement:

- The scope of works
- The forecast financial value of the agreement
- The terms of the agreement

A finalised agreement is now being processed through final governance within both organisations. The necessary governance is set out below by each party. The Applicant has committed to reimburse costs incurred prior to approval of the PPA variation in line with the agreed forecast and arising from delivery of the scope set out in the PPA variation.

#### National Highways

The Applicant is preparing the final execution version of the document. It is anticipated that this will be completed and issued to Thurrock Council by 31 May 2023.

On receipt of the executed copy from Thurrock Council, the Applicant will execute the agreement within 2 working days.

#### Thurrock Council

Entering the PPA Variation Agreement will be a Key Decision for Thurrock Council (key decisions are important decisions that are likely to either result in the Council spending or making savings of more than £500,000 a year or have a significant impact on communities living or working in an area covering 2 or more wards). It will therefore need to have oversight from Councillors and Commissioners before being approved at Cabinet. We are required by law to publish our intention to make those decisions 28 days in advance, so this would normally be scheduled to go to Cabinet on 12 July.

We will, however, use reasonable endeavours to use the special urgency provisions of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 to take the decision to Cabinet on 15 June.

Subject to approval the PPA Variation Agreement would then be signed following the expiration of a standard 5-day 'call in' period.

Signed on behalf of National Highways ... 

Dr Tim Wright, Head of Consents

Signed on behalf of Thurrock Council



Mr. Mark Bradbury, Interim Director of Place