

Our Ref: THF/ak

18 July 2023

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Dear Sirs

**A122 Lower Thames Crossing (Reference: TR010032)
Deadline 1 Written Representations
Representations on the Applicant's Draft Development Consent Order**

We write on behalf of our clients the Cole family affected by the Lower Thames Crossing in respect of the Applicant's draft Development Consent Order. The Cole family's Affected Party reference number is RR20035407.

It should be noted that the Cole family are in discussion with the Applicant on a number of issues covered by a Statement of Common Ground. We have also submitted a request for an Issue Specific Hearing on behalf of the named Affected Party in respect of matters pertaining to the Applicant's proposal for WCH routes and for which we await the ExA's response.

These further representations are in response to the draft Development Consent Order (dDCO) Version 2 (reference: AS-038 and AS-039) published by the Examining Authority (ExA) on December 22, 2022. The representations address various articles within the dDCO and raise concerns or suggestions for improvement.

1. Article 2 (10) – Environmental Mitigation
 - 1.1. The response by the Applicant to the ExA's observations on the effect of drafting raises concerns about the potential loss of land without proper scrutiny of additional environmental mitigation.
 - 1.2. It is argued that the ability to implement emerging approaches without necessity or reasonableness tests may lead to excessive environmental mitigation measures.
 - 1.3. Private landowners should not be overlooked as key stakeholders in the process and the inability to accurately assess those areas until detailed design leads to doubt in the Applicant's justification for those areas.
2. Article 5 – Maintenance of Drainage Works
 - 2.1. Concerns are raised regarding the maintenance of drainage works and the responsibility of the undertaker.
 - 2.2. The draft article should ensure that the undertaker remains responsible for remediation works if they are insufficient or if drainage issues arise from the undertaker's actions.

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2.3. There should be a "fit for purpose" requirement and provisions for the undertaker to address drainage issues at their cost.

3. Article 8 – Consent to Transfer Benefit of Order

3.1. Concerns are expressed about the potential costs and complexities that landowners may face when dealing with multiple entities during the scheme to whom the Applicant could transfer or grant the benefit of the Order to.

3.2. Specific attention is given to the implications of granting code powers for telecommunications purposes over temporarily occupied land.

4. Article 13 – Use of Private Roads

4.1. It is suggested that the draft DCO should explicitly state that existing users with legal rights over private access routes will not be impeded or restricted in their use.

4.2. The potential interruption or delay of development on land not within the applicant's order limits is highlighted as a concern.

5. Article 27 – Time Limit for Exercise of CA Powers

5.1. The proposed 8-year period for exercising Compulsory Acquisition (CA) powers is deemed excessive and unreasonable, potentially stifling business investment.

5.2. The need to allow landowners to carry on their day-to-day business and invest in their properties is emphasized.

5.3. It is recommended that the time limit for exercising CA powers should start from the date of the Order, not the expiration of legal challenge periods and limited to 5 years.

6. Article 28 – Restrictive Covenants and Transfer

6.1. Concerns are raised about the acquisition of rights and the imposition of restrictive covenants, particularly regarding their impact on existing or future land uses.

6.2. The need for more clarity on the purpose and extent of the proposed rights is highlighted, as well as potential restrictions on alternative development.

7. Articles 25 – 34 – Compulsory Acquisition (CA), Temporary Possession (TP) and Related Powers

7.1. It is suggested that the dDCO should fully, accurately and precisely define any new rights over land to avoid accidental over-acquisition of land.

7.2. Concerns are raised about the lack of information regarding new or diverted utilities and their potential impact on land use.

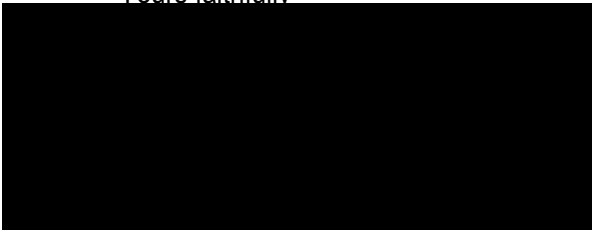
7.3. The need for scrutiny and consideration of the impact on landowners is emphasized.

7.4. The Applicant's reliance on the design and build phase as a response to the lack of accurate information is unacceptable and provides the landowner with no ability to later challenge the CA and TP rights that the Order will grant.

8. Articles 35-36 – Temporary Possession and Temporary Use of Land for Maintaining the Authorised Development
 - 8.1. Ambiguity in defining the completion of works and the lack of parameters for regaining possession of land are of significant concern to the Affected Party.
 - 8.2. The potential delay in land reversion and its impact on alternative development plans is a concern.
 - 8.3. The authority to access land during the maintenance period is deemed potentially burdensome.
9. Article 40 – Special Category land
 - 9.1. The Affected Party objects to the imposition of common land designation on their freehold land and the acquisition of their freehold interest as replacement land.
10. Article 56 – Planning Permission
 - 10.1. The protection of planning permissions on temporarily possessed land is questioned, particularly when the order causes the cessation of planning permissions.
11. Article 66 – Power to Override Easements Etcetera
 - 11.1. Support is expressed for the ExA's observations on the need to reinstate interests, rights, or restrictions on land subject to temporary possession.

In summary, the comments provided in the document address various concerns and suggestions related to environmental mitigation, drainage works, land use, landowners' rights, temporary possession, planning permissions, and acquisition of rights. The comments emphasize the need for scrutiny, reasonable time limits, clarity, and protection of the Affected Party's interests throughout the development process.

Yours faithfully



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