



Havering

LONDON BOROUGH

Mr Rynd Smith
Lead Member of the Examining Authority

Daniel Douglas
Team Leader Transport Planning
Planning
London Borough of Havering
Havering Town Hall
Main Road
Romford
RM1 3BD
t 01708 433220
e [REDACTED]@havering.gov.uk
text relay 18001 01708 433220
Date 18th July 2023
www.havering.gov.uk

Dear Sir,

London Borough of Havering (20035775) – Written Representation Lower Thames Crossing Scheme

Thank you for the opportunity to submit a Written Representation on the Lower Thames Crossing (LTC) scheme. The London Borough of Havering is a host authority and is a registered Interested Party in the Examination stage of the Development Consent Order (DCO) process.

London Borough of Havering Scheme Position

The Council is supportive of the scheme, in principle, on the basis that the proposed LTC represents investment into the borough and will be of benefit to local residents and businesses, who will gain access to a new connection south of the River Thames. Whilst supporting the scheme in principle, the Council has consistently raised concerns about the adverse impacts the scheme will have on traffic congestion and the environment, as well as the disruption caused during its construction.

LB Havering's key concerns remain as set out in the Principal Areas of Disagreement Summaries (PADS) document, which has been submitted with an errata correction at Deadline 1 (D1) to the Examining Authority (ExA). These issues and others are set out below:

- The lack of compliance with the National Policy Statement for National Networks (NPSNN) (December 2014), with specific reference to the Road User Charging Strategy.
- The lack of a Local Resident Discount Scheme (LRDS) for Havering residents.
- The severity of the adverse business and community impacts on Upminster Cemetery (UC) and South Essex Crematorium (SEC).
- Negative impacts during construction on the borough's local road network and other road users.
- Adverse impacts on local public transport during the construction phase.

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- Lack of Non-motorised User Benefits, particularly for those travelling by foot or by bike.
- Omissions and errata contained in the Applicant's Transport Assessment (TA).
- The inadequacy of the Proposed Wider Network Monitoring and Management Plan (WNMMP) to adequately address traffic and environmental impacts on the borough's transport network.
- A lack of scheme mitigation.
- Issues associated with the drafting of the DCO, including the lack of Protective Provisions (PPs) in the draft DCO (dDCO) that would protect LB Havering's local highway network and its operation during and post construction.
- LB Havering considers an unexamined highway related 'side agreement' as proposed by the Applicant to lack transparency.
- The lack of an appropriate Section 106 agreement between the Applicant and LB Havering.
- The failure to update Control Documents before the Examination in a timely manner by the Applicant to ensure LB Havering has the certainty of commitment it would expect over scheme controls.

Policy Compliance with NPSNN

LB Havering continues to have serious concerns that the proposed scheme does not comply with a number of aspects of the NPSNN. These concerns are set out in further detail in Appendix 1 of this Written Representation. The following key summary points are noted:

- (1) In respect of impacts on the wider road network the position of National Highways (NH) is, broadly, that the benefits of the scheme outweigh the adverse impacts overall and the impacts are therefore by default acceptable. NH has, however, failed to adequately assess and mitigate impacts, contrary to paragraphs 3.2, 4.3, 4.4, 4.15, 4.16, 4.64, 4.66, 5.202, 5.205, 5.206 and 5.216 of the NPSNN.
- (2) Where potential impacts requiring mitigation have been identified in the wider road network, the mitigation required to address the impacts is not secured. It is simply identified but not committed for delivery, contrary to paragraphs 4.64, 4.66, 5.202, 5.205 and 5.216 of the NPSNN.
- (3) There is no support in the NPSNN for the proposition that mitigation can be left for others to deliver without any certainty that such mitigation will be funded and delivered. Such an approach is contrary to the aforementioned paragraphs of the NPSNN.

- Road User Charging Strategy

NH has drafted a Road User Charging Statement. This statement explains the powers that are being sought in the dDCO, which would permit the Secretary of State for Transport (SoS) to introduce road user charges for the tunnel section of the LTC road only. The statement explains why it is being proposed, where the charge would apply, why the proposed charging regime has been selected and how it would operate and enforced.

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LB Havering supports a consistent charge being applied across multiple river crossings, to ensure that no crossing has a price advantage for users, which could lead to traffic pressures on those parts of the network where any cheaper crossing facility is located.

The charging statement reaffirms NH's commitment to offer a discount for the residents of the Thurrock and Gravesham Council areas. This discount will mirror that applied for residents of Thurrock and Dartford in relation to the existing Dartford Crossing. It is further noted that any user discount would be decided by the SoS.

LB Havering is of the view that the charging mechanism proposed does not comply with National Policy for Road User Charges. Section 1.4 paragraph 1.4.2 of the Statement states, *"A charge at the Lower Thames Crossing, in conjunction with the existing charging regime at the Dartford Crossing, would enable the effective operation of both crossings and the wider SRN and local road network. If there was no charge for using Lower Thames Crossing, this would lead to higher overall demand and traffic taking longer routes than would otherwise be necessary"*.

The NPSNN is clear on this point. It states in its section on road tolling and charging (paragraph 3.23) that, *"the Government's policy is not to introduce national road pricing to manage demand on the SRN, comprising the motorways and key trunk roads for which the Secretary of State is responsible"*. Furthermore, paragraph 3.25 of NPSNN states, *"River and estuarial crossings will normally be funded by tolls or road user charges"*.

In paragraph 1.4.3 of the Road User Charging Strategy, NH state that, *"Although charging revenue would not directly fund the project, it would go to the Government and hence distribute the cost of the Project between the taxpayer and users. This is aligned with paragraph 3.25 of the National Policy Statements for National Networks (DfT 2014)"*. LB Havering would dispute this assertion, as no reference is made to charges being applied directly to fund the construction of the scheme, nor has the claimed revenue hypothecation been expressly set out by either NH or the sponsoring government department.

Given the policy compliance concerns, as set out above, LB Havering requests that the proposed charging mechanism is reviewed accordingly.

Local Resident Discount Scheme (LRDS)

The Council is particularly concerned that the LRDS is not available to Havering residents.

The Road User Charging Statement, cited above, sets out the rationale for applying a LRDS for the project and that it would only be available for council taxpayers in the Gravesham and Thurrock Council areas. This statement goes on to say that the DCO will allow the SoS to enter into the same discount arrangements as is applied to the existing Dartford Crossing.

The reason given for why only residents of Gravesham and Thurrock will be eligible for a LRDS is because the proposed tunnel portals are located in these two authorities' areas, which is consistent with the approach applied to the same scheme for the Dartford Crossing.

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However, LB Havering rejects the premise that it can only be applied to the authorities where the tunnel portals are located because the red line boundary stretches to the M2/A2 and Kent, to the south, and north of M25 Junction 29 in Havering.

LB Havering has consistently argued for the residents of Havering to be eligible for the LRDS as the borough will be a host authority for the project. It has been disappointing that the views of the Council have not been properly reflected by NH when they have formally commented on the charging matter.

The Council has requested traffic data from NH that demonstrates the number of journeys using the LTC that start or finish in Havering, as set out below.

The tables demonstrate in the AM peak hour (07:00 – 08:00) that usage of the proposed LTC by trips to/from Havering is limited.

2030 AM Base traffic flows.

AM 2030 Do Minimum (no LTC)	Flow N/B (PCUs)	Flow S/B (PCUs)
Bridge		434
East Tunnel	402	
West Tunnel	296	
Dartford Total	698	434

2030 AM Do Something (with LTC): LBH only traffic flows.

AM 2030 Do Something (with LTC)	Flow N/B (PCUs)	Flow S/B (PCUs)
Bridge	-----	514
East Tunnel	447	-----
West Tunnel	229	-----
Dartford Total	676	514
LTC	325	65
Overall Total LBH	1,001	579
Crossing Change	+303	+145

2030 AM Do Something (with LTC): all traffic.

AM 2030 Do Something (with LTC)	Flow N/B (PCU)	Flow S/B (PCU)
LTC all traffic	4,546	3,456
% LBH	7.1%	1.9%

Applying the most recent Department for Transport (DfT) National Travel Survey (NTS) data of journey purposes in the morning peak, the following types of journey are likely, as set out below.

Indicative Journey Purpose of LBH LTC Trips (AM peak)

Journey Purpose	NTS % AM Peak	LTC N/B	LTC S/B
Commuting	20.9%	68	14
Business	13.1%	43	9
Education	26.4%	86	17
Education (escort)	20.6%	67	13

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Shopping	2.5%	8	2
Other work, personal business	8.3%	27	5
Visiting friends / entertainment / sport	2.4%	8	2
Holiday / Day trip / Other	5.9%	19	4
Total		325	65

The table above shows the very limited number of journeys starting and ending in Havering using the proposed LTC. The Council considers that the provision of the LRDS for its borough residents would not have a severe detrimental effect on the revenue from the scheme.

Furthermore, the provision of the LRDS would offset some of the significant adverse impacts that the borough experiences during the construction of the proposed scheme, estimated to be of six years' duration.

Upminster Cemetery and South Essex Crematorium

Part of the Construction Traffic Management measures for the project will involve the prolonged closure of Ockendon Road, in order to accommodate the new LTC road onto the M25. NH is currently forecasting that this closure would last for approximately 19 months.

There is real concern for the socio-economic impact that the closure of Ockendon Road will have on both Upminster Cemetery (UC) and the South Essex Crematorium (SEC).

During the 2021 calendar year, UC (also known as SEC) handled a total of 3,158 cremations and 295 burials. In any given year, the SEC needs to handle around 3,000 cremations and 300 burials to maintain a viable essential public service.

In terms of business impacts, during the 2021 calendar year, 16% of all burials and 17% of all cremations at SEC came from the east or north-east of Havering. It is anticipated that these routes will be severely impacted during construction of the LTC and, as such, could well deter clients from using the SEC services. There are a number of alternative facilities in Essex and Thurrock that funeral directors could advise bereaved families to use instead. There is concern that the construction impacts, over such an extended period of time, will mean that the SEC is unable to serve a wide catchment area, as it currently does.

Tables 14 and 15 of the LB Havering's Local Impact Report (LIR) show, based on the percentage of burials and cremations that currently reside east and north-east of Havering, if those families were to take their custom elsewhere then the Council could lose in excess of £700,000 per annum.

Given that Ockendon Road alone will be closed for the best part of two years, this could lead to a potential loss of up to £1.4 million. This, of course, does not take into account the wider traffic management measures that will be in place within the Upminster area during other parts of the anticipated six year construction period (such as along St Mary's Lane), so the potential for lost income, operational disruption and anxiety and stress caused to families of the deceased, is clearly much greater than that.

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There is concern that the construction impacts, over such an extended period of time, will mean that the SEC is unable to serve a wide catchment area. The Council is concerned that these impacts will lead to reputational damage, with stakeholders choosing to use cemeteries and crematoria in the wider region instead.

LB Havering is also concerned that it will not be able to meet its obligations under the Local Authorities Cemeteries Order 1977, in particular Schedule 1 Access to Cemeteries. This is detailed further in paragraph 9.8.4 of Havering's LIR.

There is a strong view that continual road closures, diversions, extended times needed to get staff and vehicles from "a to b", as well as the additional mileage costs, will put a major strain and costs on local business such as funeral services. If funeral services have longer journeys to/from the UC/SEC, this could result in much shorter time between funerals and this, in turn, would mean fewer funerals being able to take place at UC. Ultimately, this would lead to a reduced level of income for this Council-operated facility.

It is also important to consider the implications for staff commuting to SEC. A total of 16 of the 31 staff (i.e., 52%) that work at the crematorium live east or north-east of the borough and are likely to be impacted by construction works for the scheme.

The nature of the work carried out at SEC means it is imperative that staff begin their shifts on time, both to be ready for calls coming in from funeral directors, but also so they are ready for the first funerals of the day to take place.

LB Havering has reviewed the proposed diversion routes for the (currently planned) 19 month closure of Ockendon Road. Diversion routes need to be made resilient to ensure journey time reliability for trips to UC/SEC but no commitment to this is proposed by the Applicant.

Issues relating to UC and SEC are considered in Chapter 9 of the LIR prepared by LB Havering.

Impacts during Construction

The Council is concerned with regards to the impact that the construction of the scheme will have on the local road network and other road users. Further details can be found in the Traffic and Transport Chapter 7 of LB Havering's LIR, also being submitted at D1. In summary, these concerns include:

- The suitability of diversions routes.
- The suitability of construction traffic routes.
- Access to construction compounds.
- The implications for reassignment of traffic on Havering's local highway network.
- The length of time traffic management will be in place on the local highway network.
- The specification for, coherency and consistency of Public Rights of Way (PRoW) provision.
- The safety of PRoW users on new sections of footpath and bridleway where they interact with LB Havering's network.

The Council remains concerned about the impact the scheme will have on some borough roads and some of the proposed construction routes put forward by the Applicant. Further

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information on the Council's concerns can be found in Chapter 6, Tables 3, 4 and 5 of Havering's LIR.

Public Transport Impacts

The LB Havering considers that bus routes provide a key element of local connectivity, both within the borough and with neighbouring areas in Thurrock. The bus routes directly affected by the construction of the LTC are:

- **Route 347**, which runs from Ockendon to Romford 4x a day each way at 2 hourly intervals between 10:00 and 16:00 on Monday to Saturday. This bus route operates via St Mary's Lane.
- **Route 370**, which runs from Romford to the Lakeside Shopping Centre at Thurrock. Services run from around 05:45 to 01:00 on Monday to Saturday and from 06:30 to 01:00 on Sundays. Service frequencies are every 15 minutes Monday to Saturday and every 30 minutes on Sunday, with lower frequencies in the evenings.

Both bus routes will be adversely affected by the LTC construction works. Route 347 will be delayed by the St Mary's Lane traffic management and the 370 service will be re-routed by the 19-month closure of Ockendon Road.

Other services that operate further west along St Mary's Lane will also be affected by increased traffic on St Mary's Lane during periods of the construction programme. This includes route 346, which currently operates between Upminster Station and Cranham. It should be noted at the time of writing this Written Representation, Transport for London (TfL) are proposing to withdraw this service as part of a wider bus improvement programme. In addition, a dedicated school bus service (Route 646) operating between Noak Hill in the north of the borough and Cranham.

Non-motorised Users Benefits

The Council has raised concerns that the scheme, as currently proposed, does not adequately support users of other modes of transport, particularly for those travelling by foot or by bike.

The Council welcomes the proposed Non-motorised Users (NMU) bridge that will be delivered over the A127 between Moor Lane and Folkes Lane. However, the connectivity of the proposed green infrastructure is lacking. Safe onward links towards Folkes Lane Woodland (a location of replacement open space proposed by the Applicant) and along Moor Lane need to be designed and agreed with Havering Council.

Folkes Lane is a narrow road that has a number of businesses located along it. LB Havering would like to see a new dedicated NMU route that will provide dedicated access from the exit of the bridge north of the A127 up to Folkes Lane Woodland. Currently NH are looking at appropriate solutions, which is welcome, however delivery of any new NMU link would be outside of the DCO project itself. LB Havering considers this unacceptable and would like to see both a new dedicated link up to Folkes Lane Woodland, together with improvements to Moor Lane, secured as part of the DCO.

The creation of a new footbridge to connect footpath 252 across the LTC road is welcome. However, the Council does not consider it acceptable that the future burden of maintaining

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the element of this footpath that goes over the railway line should fall to LB Havering, as local highway authority. Further details on the Council's concerns can be found in paragraphs 10.1.12 to 10.1.15 of the LIR.

The Council welcomes the proposals being looked at for delivering a new cycle route between Thorndon Park in Brentwood and Upminster in Havering. Whilst this scheme is welcome on principle, the Council is again concerned that the scheme is being progressed outside of the DCO process, through designated funds, and is not being secured as part of the project mitigation. This provides the Council with no surety that this cycle scheme will actually be funded and delivered, despite it being identified as having a mitigating effect on the severance created by the LTC scheme.

The Council is aware that several PRow in the borough will be impacted during construction of the scheme. In addition, the Council is concerned that Havering residents will not be able to safely access the new woodland area being created by NH at Hole Farm in Brentwood. Further details on Havering's concerns can be found in paragraphs 10.1.1 to 10.1.15 of the LIR.

The connectivity of the proposed green infrastructure is lacking. Safe onward links to Folkes Lane and Moor Lane need to be designed and agreed with Havering Council.

Concerns regarding the Applicant's Transport Assessment

The Council has concerns about omissions and errata contained in the Applicant's Transport Assessment (TA), titled *Lower Thames Crossing, 7.9 Transport Assessment, Volume 7, Version 1.0*, dated October 2022 [APP-529]. The Council has carried out a detailed review of the Applicant's TA, a document which extends to 458 pages (excluding appendices).

The Council is concerned about the lack of detail provided in the TA to establish the transport baseline sufficiently. As a general point, the TA does not include site photographs (or extracts from Google Street View or similar) to assist the understanding of local conditions. This is of particular concern in relation to rural roads in the borough which will be significantly impacted during scheme construction, notably during proposed route diversions, e.g., Pea Lane, Pike Lane and Stubbers Lane. Whilst the TA includes information on bus routes in relation to Thurrock and Gravesend, it does not include bus service information specific to Havering.

The TA shows predicted changes in traffic flows (in PCUs) for the 2045 future assessment (design) year for the identified time periods, including the AM (07:00 – 08:00) and PM (17:00 – 19:00) peak hours, comparing the Do Minimum (DM, without LTC) and the Do Something (DS, with LTC) [APP-529, 7.5.5, Plates 7.10 – 7.15, pp. 139 – 144]. The predicted % change in traffic flows is also given [7.5.10, Plates 7.16 – 7.18, pp. 146 – 148]. These results show increases of between +20% <=40% (orange) and >=40% (red) for routes within Havering, particularly around the Upminster and Hornchurch areas. The scale of plans in the TA make it difficult to properly interpret and understand the local area impacts.

The TA identifies a set of 28 journey time (JT) links extracted from the Lower Thames Area Model (LTAM) to show the impact of the scheme (with a total of 56 JT links by direction). These results are reported for the 2030 future assessment (opening) year for the DM and DS scenarios [APP-529, Plate 7.37, p.172 & Tables 7.11 to 7.13]. It is noted that the

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operational assessment results reported in the TA focus on the 2045 design year. However, the TA reports JT assessment results in the main document for the 2030 opening year only; the rationale for this is not provided.

The TA review has identified a significant reporting error in relation to the JT assessment for the PM peak hour, which is evident in Table 7.13 of the document. In Table 7.13 it is noted that, whilst the high and low growth scenarios exhibit broadly similar RAG (red, amber, green) patterns for the % change, the corresponding core growth scenario has markedly different RAG characteristics.

In TA Table 7.13 for the core scenario, in the AM and inter peak hours respectively, a total of 25 (45%) and 30 (54%) of the total 56 JT links experience a JT increase (shown in yellow, amber or red). In the PM peak hour, only 4 (7%) of the 56 JT links experience a JT increase, with the majority showing a JT % reduction. This reporting error needs to be addressed to clarify the assessment results.

It has been observed above that the transport baseline established in the Applicant's TA does not provide bus service information specific to Havering. Chapter 8 of the TA reports the construction assessment and considers impacts on bus services by phase, including a bus JT assessment [APP-529, p.401, 8.9.11]. It is noted that Tables 8.70 to 8.79 of the TA list affected bus routes but, again, do not include identify any bus routes specific to Havering. Bus route 370 (identified for the Thurrock area only) runs on Ockenden Road and experiences a delay in excess of 6 minutes in the AM peak hour during construction phases 4 to 6 inclusive (Tables 8.73 to 8.76).

With respect to road safety, the TA reports STATS19 data for the years 2015 to 2019 inclusive. The locations of accidents by severity type are shown in Plates 9.6 and 9.7 for the area north of the River Thames [APP-259, pp. 437-8]. This analysis does not meaningfully consider the safety implications for roads on the local highway network. The safety implications of the construction phase are not specifically considered in Chapter 9 with regards to local road users.

In its conclusion in Chapter 10, the TA states, *"This TA complies with all the relevant policy and guidance to provide a robust assessment of the forecast impacts and our proposals for mitigating these both during construction and operation"* [APP-529, p.444, 11.2.4).

It is the Council's view that the Applicant's TA does not adequately establish the transport baseline for the surrounding local highway network, particularly in relation to potential construction impacts. It is also considered that the TA does not adequately assess impacts on the local highway network (including road safety), with the scale of reporting being difficult to properly interpret.

Wider Network Impacts

The proposed Wider Network Monitoring and Management Plan (WNMMP) lacks detail and does not provide LB Havering with the surety it needs that impacts on the wider network will be adequately addressed.

The locations identified for monitoring impacts are largely limited to the Strategic Road Network (SRN) with a very limited number of sites located within Havering and with no reference to the likely changes in flows predicted by the Applicant.

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The WNMMP provides no mechanism for funding any necessary mitigation within Havering, making any monitoring regime a worthless shadow exercise. Whilst Table 6.1 of the WNMMP sets out potential Local Road Network Funding streams, most of these are not applicable to Havering because of the devolved transport responsibilities from Central Government to the Mayor of London.

There are no commitments in the WNMMP that impacts on the wider network will be addressed by NH, with the responsibility appearing to be passed on to respective local highway authorities instead. The WNMMP requires redrafting in consultation and agreement with Havering Council.

The Council has concerns over the impact the LTC scheme, once operational, will have on a number of junctions within Havering, in particular those that border the A127. These concerns were expressed to NH who subsequently undertook local junction modelling for 12 junctions within Havering. On review of this modelling work, the Council remained concerned that the methodology used by NH to undertake this modelling rendered its outcomes unreliable.

In conjunction with TfL, local junction modelling work has been commissioned to assess the validity of modelling work undertaken by NH and to assist the identification of local impacts. The findings of this work are set out in more detail in paragraphs 7.5.12 – 7.5.24 of the LIR.

The Council is seeking a clear commitment from NH to work with both LB Havering and TfL to secure appropriate and funded mitigation for all users of junctions in the borough that will be adversely impacted by the scheme.

Mitigation

The Environmental Statement (ES) and the Planning Statement defines the impacts of the scheme extensively, but effective mitigation is not provided on the basis of the national need for the scheme being the overriding concern. This is considered unacceptable by LB Havering, particularly where severe adverse impacts are identified. LB Havering would like to see a comprehensive package of mitigation provided and secured through the DCO. Further details on LB Havering's mitigation requests are detailed in Chapter 11 Mitigation Measures, paragraph 13.1.1 and Table 18 of the LIR. In summary these include:

- Appropriate mitigation to protect archaeological features, including the North Ockendon Channel.
- Mitigation measures proposed within the CoCP, REAC and Environmental Management Plan need to be secured appropriately.
- Mitigation of noise and vibration impacts from construction compounds.
- Improved access to Folkes Lane Woodland.
- Bespoke compensation for the permanent loss of North Ockendon Pit SINC.
- Roaming school crossing patrols to be utilised outside schools impacted by traffic during periods of construction.

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Draft DCO

The Council has raised a number of concerns in relation to the Clauses and Requirements set out within the dDCO. These matters remain outstanding at the time of submission of this Written Representation.

The key concerns of the dDCO can be found below:

- There is inconsistency between the requirements and the supporting strategies (e.g., the Charging Strategy) and these inconsistencies need to be addressed.
- The removal of the words “reasonable” and “best endeavours”, in line with the consented M25 Junction 28 DCO is required for the revisions of all Control Documents.
- Protective provisions for local highway authority vehicular and non-vehicular networks are required.
- Deemed consent is required to be extended to 42 days, in line with the consented M25 Junction 28 DCO.

Section 106

The Section 106 Heads of Terms document does not give the Council surety that the Applicant can satisfactorily manage the impacts of the scheme. It offers very little, if any, recompense to Havering residents for the disruption during the lengthy construction phase. It is disappointing to see no recognition to any potential severance the scheme may cause in Havering, with the only pedestrian crossing improvement proposals for parts of the highway network in Kent and Thurrock. The reference to Officer support contributions to local authorities, should the DCO be granted, is welcome but there is a lack of detail as to what this might encompass at this stage.

The scheme’s proposed skills, education and employment strategy (SEE) needs to include specific targets for Havering residents, for example, in relation to apprenticeships.

The Community Fund put forward by the Applicant is not considered substantial enough. A total of £27,000 of funding has been made available to community groups in Havering on an annual basis for each of the six years of construction. There is also a limit of £10,000 maximum grant for an application. Such a relative small sum is likely to put off groups from submitting applications, who may take the view that the amount of time needed to prepare an application (compared to the amount of funding that will be received) makes the bidding process not worthwhile.

The Council has previously engaged with NH on the potential for S106 matters and has also submitted a list of “asks”. Despite assurances that such “asks” would be looked into, LB Havering has received no formal S106 offer to consider.

The Council has set out a number of mitigation measures that should form Planning Obligations or a Legal Agreement with NH. Further details on LB Havering’s S106 asks can be found in Chapter 14 paragraphs 14.1 to 14.1.2 and Table 18 of the LIR. In summary, these asks include:

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- Compensation for the disrupted operation of Upminster Cemetery and South Essex Crematorium during construction.
- Financial contribution to sustainable travel and road safety education schemes for schools most impacted by the construction works.
- A LB Havering DCO Programme Manager post fully funded, should the project receive consent.
- Ongoing technical support to allow the Council to meet requirements of the DCO post consent.
- Local Skills and employment targets for Havering.
- An increased Community Fund.

LB Havering is of the view that the obligations identified comply with planning conditions and obligations paragraphs 56 and 57 of the NPPF.

Production of documentation following DCO being granted

The Council is very concerned that critical documents such as the Traffic Management Plan, the Environmental Management Plan and the Code of Construction Practice will only be produced by the appointed contractor post consent being granted for the DCO. This is extremely concerning for LB Havering, as the Council will have little opportunity at that stage to influence their content and a local authority, such as Havering, would only be considered as a consultee at that stage in the process.

The Council has similar concerns that the implementation of the REAC will be the responsibility of the appointed contractor following consent being granted.

Thank you for the opportunity to submit a Written Representation. LB Havering is happy to assist the ExA as the Examination progresses including through any Hearings that are held.

Yours faithfully,



Daniel Douglas
Team Leader Transport Planning

Appendix 1

LONDON BOROUGH OF HAVERING (LBH) LTC COMPLIANCE WITH NPSNN WITH PARTICULAR REFERENCE TO HIGHWAY IMPACT ASSESSMENT AND MITIGATION

KEY POINTS

- (1) In respect of impacts on the wider road network the position of NH is, broadly, that the benefits of the scheme outweigh the adverse impacts overall and the impacts are therefore acceptable.¹ NH have however failed to adequately assess and mitigate impacts, contrary to paras 3.2, 4.3, 4.4, 4.15, 4.16, 4.64, 4.66, 5.202, 5.205, 5.206 and 5.216 of the NPSNN.
- (2) Where potential impacts requiring mitigation have been identified in the wider road network the mitigation required to address the impacts is not secured. It is simply identified but not delivered, contrary to paragraphs 4.64, 4.66, 5.202, 5.205 and 5.216 of the NPSNN.
- (3) There is no support in the NPSNN for the proposition that mitigation can be left for others to deliver without any certainty that such mitigation will be funded and delivered. Such an approach is contrary to the aforementioned paragraphs of the NPSNN.

Introduction

1. The approach of NH to mitigation and NPSNN compliance is set out in numerous documents. The document which appears draws all the relevant information together is **Appendix F of the TA “Wider Network Impacts Management and Monitoring Policy Compliance”** (APP-538).
2. In summary, the NH position seems to be:
 - a) The benefits on the road network would outweigh the adverse impacts both in each local authority’s area and overall, and the impacts are therefore acceptable (1.1.1. APP-538).
 - b) The TA shows that there will be major, moderate and minor adverse impacts on the SRN and wider network. In many cases these will be offset by reduced journey times but in some cases there will be adverse impacts on journey times. (1.4.3. APP-538).
 - c) Additional development will come forward (forecast and non-forecasted) and it will be uncertain what congestion is solely as a result of the LTC. It is therefore appropriate for issues arising from traffic flow changes to be addressed through the existing funding framework for managing the road network, especially in light of the overall benefits of the LTC. (1.1.3 APP-538).

¹ Para. 1.1.1 App F of TA “Wider network Impacts Management and Monitoring Policy Compliance (APP-538)

- d) In any event, there is no specific requirement in the NPSNN to mitigate in response to **congestion** (in contrast to accessibility and severance) (1.3.3 APP-538). Pursuant to the NH licence obligations to collaborate with LHA, NH are committing to putting in place a monitoring scheme to monitor the impacts of the Project and other changes in traffic flows. The resulting data may be used to assist LHA in bidding for funds for highway improvements. (1.4.6 and 1.4.11 APP-538).
- e) NH say that where **severance** occurs in the majority of cases it will not be a concern, but some locations may need further investigation. The proposed s.106 Heads of Terms identify those locations and commit NH to fund feasibility studies and improvements. The identified locations do not include any in Havering. (1.5.1 APP-538).
- f) The NPSNN says adverse impacts on **accessibility** should be mitigated as far as possible and there is a strong expectation that impacts on accessibility for non—motorised users should be mitigated (NPSNN 5.216) – the NH position on this is not apparent from APP-538.
- g) **Safety** - NH say that there will be a reduction in the accident rate per million vehicle km. There is an overall increase in number of accidents, but this is because the vehicle km travelled overall increases because of the new routes. Increased flows on roads with existing accident rates do not necessarily mean increased accidents. Post opening evaluation will assess the position and LHA can bid for funding to address issues. (1.7.2 – 1.7.5 APP-538).

Comment

3. Para. 4.3 of the NPSNN requires the Examining Authority and the SoS to take into account *“potential adverse effects including any longer term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts”*. It also requires consideration of mitigation for safety (NPSNN 4.64), severance (NPSNN 5.206) and accessibility (5.216). Therefore, the balance of overall benefits v adverse impacts should assume that the adverse impacts have generally been mitigated as far as reasonably possible. To apply the NPSNN and undertake the balance properly, impacts do need adequate assessment and necessary mitigation needs to be identified and needs to be deliverable.
4. It is difficult to see how any reliance could be placed on any mitigation reliant upon the funding framework since whether or not the mitigation will be delivered will not be dependent upon the need for the mitigation but dependent upon how it compares to other funding bids – i.e. needs elsewhere, unrelated to the scheme. LBH sees no support in the NPSNN for the NH reliance on the funding framework for necessary mitigation.
5. The argument of the benefits outweighing the adverse impacts seems to be used as an almost overriding justification for any impact NH can't/won't mitigate. It cannot be the case however that all impacts, however adverse and if not mitigated, can simply be considered collateral damage. In fact, NH seem to adopt a rather extreme position in almost suggesting that, including mitigation which might otherwise be funded by the funding framework, would be to subvert the “transparent funding process” and should not be done by any promoter of a DCO.

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(Para. 1.8.3 APP F). LBH does not know whether this is a precedented approach and whether any other of its DCO have adopted that position.

6. NH have of course included some mitigation and it is not clear where they have drawn the line on what they have been prepared to include and what they haven't, particularly in respect of impacts on the wider road network.
7. Whilst the NPSNN does suggest that a balance of benefits against adverse impacts should be undertaken this does not obviate the need to mitigate adverse impacts where reasonably possible.
 - NPSNN para. 1.2 – refers to s.104 of the PA 2008 which states that where adverse impacts of the development outweigh benefits then a decision of the application does not need to be made in accordance with the NPSNN. That is merely an ability to derogate from the NPS. It is not the test for the acceptability of an application.
 - NPSNN para. 3.2 – *“In delivering new schemes the Government expects applicants to avoid and mitigate environmental and social impacts”*.
 - NPSNN para. 4.3 – *“In considering any proposed development and, in particular, when weighing its adverse impacts against its benefits, the Examining Authority and the Secretary of State should take into account:
 - its potential benefits, including the facilitation of economic development, including job creation.....;
 - its potential adverse impacts, including any longer term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts”*.
 - Para. 4.4 – *In this context environmental, safety, social and economic benefits and adverse impacts should be considered at national regional and local levels.”*
 - NPSNN para. 4.64 – *“Applicants will wish to show that they have taken all steps that are reasonably required to:
 - minimise the risk of death and injury arising from their development.
 - contribute to an overall reduction in road casualties.
 - contribute to an overall reduction in the number of unplanned incidents; and
 - contribute to improvements in road safety for walkers and cyclists”*.
 - NPSNN para. 4.66 – *“The Secretary of State should not grant development consent unless satisfied that all reasonable steps have been taken and will be taken to:minimise the risk of road casualties arising from the scheme”*.
 - NPSNN para. 5.202 – *“The consideration and mitigation of transport impacts is an essential part of Government’s wider policy objectives for sustainable development.*
 - NPSNN para. 5.205 – *“.... The applicant should provide evidence that as part of the project they have used reasonable endeavours to address any existing severance issues that act as a barrier to non-motorised users”*.
 - NPSNN para. 5.216 – *“Where development would worsen accessibility such impacts should be mitigated as far as reasonably possible. There is a very strong expectation that impacts on accessibility for non-motorised users should be mitigated”*.

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8. To undertake the balancing exercise referred to in the NPSNN para. 4.3 the impacts need to have been properly assessed:
- NPSNN para. 4.15 – *“When examining a proposal, the Examining Authority should ensure that likely significant effects at all stages of the project have been adequately assessed”*.
 - NPSNN para. 4.16 – *“When considering significant cumulative effects, any environmental statement should provide information on how the effects of the applicant’s proposal would combine and interact with the effects of other development (including projects for which consent has been granted, as well as those already in existence).*
 - In para. 1.1.1 of App F NH state, *“As a result of this [alternative and faster route options], there would be changes in the amount of traffic flowing at many locations across the road network. In many places on the network, and notably at the Dartford crossing, this would lead to significant beneficial impacts on both journey times and journey reliability. In some locations this change in road user decisions could lead to adverse changes.”* This sentence seems to reflect either the different level of assessment reliability that can be ascribed to the benefits as opposed to the adverse impacts, or an unwarranted certainty attributed to benefits in contrast to the uncertainty attributed to adverse impacts.
9. The assessment of impacts has been inadequate, partly due to the use only of a strategic model where local assessment is required (see Section 7 LIR paras. 7.2.1 - 7.2.11 (Construction) and paras. 7.3.1 – 7.3.7 (Operation)).
10. The NH assessment, and assessment work carried out on behalf of LBH, demonstrates that additional impacts need addressing and in some cases mitigation secured. (See LIR paras 7.3.25 – 7.3.26 (Construction); paras. 7.4.1 – 7.4.2 and Table 10 (Operation), paras. 7.5.1 – 7.5.24 and Table 11 (Local Junction Modelling), 10.1.1. – 10.1.10 (NMU)).
11. Mitigation for those adverse impacts needs to be identified where reasonably possible and its delivery secured. However, even where adverse impacts are identified by NH the approach of NH in respect of impacts on the wider network is to simply, identify, monitor and then leave it to local highway authorities to compete for funds to try and carry out the necessary works.
12. Relying on the general funding framework for mitigation is not identified as an appropriate approach to mitigation in the NPSNN – it provides no certainty as to the delivery of the mitigation as it entirely depends on funding priorities and the competing needs elsewhere.
13. Para. 1.1.3 of APP-538 states:
- “These increased flows [arising from LTC, other developments in development and future projects not yet modelled] require a structured regional approach to the management of investment on the highway network to prioritise funding.....The need for specific investments across the network required to respond to the changing in traffic flows needs to be considered in this context”*.

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14. In para. 1.8.3 of APP-538 NH states:

“As set out above, there are existing statutory and funding mechanisms which are in place specifically to address and support improvements across the road network, where these are considered necessary. National Highways has not sought to use the process for obtaining a Development Consent Order under the Planning Act 2008 to substitute the existing process which allows the Government to operate a transparent funding process, which can fairly consider requests for intervention and investment locally on a par with the way in which other Projects which may be unrelated to the Project are considered. This allows the Secretary of State to make decisions based on the merits in the context of government policy and government spending priorities. The existing system is fit for purpose and should not be set aside by this or any other DCO application.”

This seems to be suggesting that there is no need to fully assess or address adverse impacts since those impacts should be dealt with through general government funding framework. It is not clear where NH draw the line between adverse impacts that are properly mitigated through the scheme and adverse impacts which should be left to the “existing system”. This is perhaps not surprising since the approach set out in para. 1.1.3 and para. 1.8.3 is not based on anything contained within the NPSNN.

15. Had it been Government policy that, *“The existing system is fit for purpose and should not be set aside by this or any other DCO application”*, meaning that some mitigation should be dealt with through the general funding framework, then, such a fundamental principle, would surely be set out in the NPSNN. On the contrary, the NPSNN requires that adverse impacts be fully assessed and mitigated if reasonably possibly. It does not state or even imply that mitigation can be postponed to another, separate and uncertain, process which is not aimed at responding to the EIA for this scheme.
16. An example of the application of this flawed approach is the way in which NH have addressed safety and the requirement to comply with the four bullet points in paragraph 4.64 of the NPSNN which, *inter alia*, require NH to take all reasonable steps to minimise risk of death and injury and to contribute to overall reduction in injuries and casualties.
17. In APP-538, para. 1.7.2, NH acknowledge there will be an overall increase in the number of accidents because of an increase in vehicle kilometres travelled. Some of the increased traffic flows arising from LTC coincide with roads with an accident history (1.7.3). The only way in which NH address this is to say that there will be a post-opening project evaluation and where accident clusters are identified it is then the responsibility of the LHA who can apply for funding from the DfT (1.7.5.). On this basis NH assert, in para. 1.7.6 of APP-538, that they have complied with para. 4.64 of the NPSNN – but they are effectively taking no steps, let alone reasonable steps, to comply with para. 4.64.

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18. Another example is the acknowledgement that there are some adverse impacts on junctions and, *“where these impacts occur, there is potentially a case for further investment on the road network”* (1.4.3). This, again, is left for the LHA to sort out.
19. NH state, *“The combination of forecast and non-forecasted future development creates a level of uncertainty over what, if any, intervention is necessary”* (1.4.4), and *“Over time it will be very difficult to demonstrate that traffic flow changes on the road network were solely as a result of the LTC and not other factors...”*. The NPSNN is clear – there should be a cumulative impact assessment based on what is known now and there is nothing in the NPSNN which says that, because it is uncertain, one should not attempt to deal with the assessed impacts identified but instead should leave to a wholly separate exercise unrelated to the EIA for the Project.
20. LBH is not aware of any precedent for the NH approach of leaving others to deliver mitigation without any certainty that the mitigation will be funded and delivered. LBH is also not aware of NH being content for any other party promoting a DCO to rely on such an approach to the securing and delivery of mitigation.
21. The traffic monitoring scheme referred to in draft Requirement 14 is of no comfort. The scheme delivers no mitigation, only information. The tailpiece in requirement 14(3) means that the scheme need not be implemented and can be stopped at any time at the complete discretion of the Secretary of State irrespective of the consequences.

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