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FAO Mr Smith (Lead Panel Member for the Examining Authority)  
c/o Mr Bartkowiak (Case Manager)  
The Planning Inspectorate  
National Infrastructure Planning  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

A122 Lower Thames Crossing  
National Highways  
Woodlands  
Manton Lane  
Bedford  
MK41 7LW

National Highways Customer Contact  
Centre: 0300 123 5000

01 August 2023

Dear Mr. Smith

## A122 Lower Thames Crossing (Reference Number TR010032)

### 1 Applicant's third notification to submit a request for proposed change to the application for development consent

- 1.1.1 Further to the Applicant's letter of 3 July 2023, the "Applicant's second notification to submit a request for proposed change to the application for development consent" as published under [**Procedural Decision [PD-023](#) and [PD-024](#)**], the Applicant is writing to advise the Examining Authority that it wishes to propose two further proposed changes to be submitted on or around Deadline 6. These are minor in nature but the Applicant is requesting a change to the application under advice note 16 *Requests to change applications after they have been accepted for examination (March 2023) (version 3)*.
- 1.1.2 The two additional 'proposed changes' are as follows:
- a. EC03 – a minor increase to the Limits of Deviation in relation to a proposed WCH structure over the A127 to prevent any conflict with proposals for a new employment park (Brentwood Enterprise Park).
  - b. EC04 – the correction of the land use for plot 16-41 to reflect the requirement for the powers of permanent acquisition of subsoil and rights, and temporary possession of land at the surface of this plot. Currently, plot 16-41 is shown as required for permanent acquisition of subsoil and rights only, so does not include temporary possession of land at the surface.
- 1.1.3 As set out in the attached Third Notification of Proposed Changes to the Planning Inspectorate' [Document Reference 10.25] the Applicant considers that both individually and cumulatively (including those changes and amendments already notified to the Examining Authority) the proposed changes

do not constitute material changes to the Project which was the subject of the application for development consent in October 2022.

- 1.1.4 This letter and the enclosed Third Notification of Proposed Changes to the Planning Inspectorate' [Document Reference 10.25] constitutes Step 1 of Figure 1 of Advice Note Sixteen, in which the Applicant informs the Examining Authority in writing of its intention to request a change to the accepted application.
- 1.1.5 The Applicant intends to carry out a targeted non-statutory consultation with Persons with an Interest in Land (PILS) in relation to the second change (EC04) prior to making the formal change request, having regard to the principles and process set out in Advice Note 16.
- 1.1.6 The consultation on (EC04) is proposed to take place in August 2023 and run for 28 days. The consultation is proposed to be non-statutory without the publication of notices. This is due to the localised and minor nature of the proposed change. Therefore, the Applicant proposes to undertake targeted consultation, writing to persons with an interest in land directly affected by the proposed change.
- 1.1.7 The views of the Examining Authority are sought in relation to the proposed consultation exercise.
- 1.1.8 Following the conclusion of the targeted consultation exercise, it is the Applicant's intention to submit a request asking the Examining Authority to examine the changed Application, which will include a summary of the responses received and how the Project has considered them. The Applicant is intending to make this submission on or around Deadline 6 (31 October 2023).
- 1.1.9 The Applicant understands that once the proposed changes have been submitted, the Examining Authority will need to make a Procedural Decision whether or not to accept the proposed changes into the Examination.
- 1.1.10 For more information, please refer to the Third Notification of Proposed Changes to the Planning Inspectorate' [Document Reference 10.25] enclosed with this submission.
- 1.1.11 I should be grateful if you could confirm acknowledgment of receipt of this letter. If you have any questions on any of the matters outlined above, please contact me.

Yours sincerely

Dr Tim Wright,  
Head of Consents – Lower Thames Crossing

# Lower Thames Crossing

## 10.25 Third Notification of Proposed Changes to the Planning Inspectorate

Infrastructure Planning (Examination  
Procedure) Rules 2010

Volume 10

**DATE: August 2023**  
**Third Change Application**

Planning Inspectorate Scheme Ref: TR010032  
Examination Document Ref: TR010032/EXAM/10.25

**VERSION: 1.0**

# Lower Thames Crossing

## 10.25 Third Notification of Proposed Changes to the Planning Inspectorate

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# 1 Introduction

## 1.1 Introduction

- 1.1.1 National Highways (the Applicant) has submitted an application under section 37 of the Planning Act 2008 for an order to grant development consent (the Application) for the A122 Lower Thames Crossing (the Project). The Development Consent Order (DCO) application (the Application) was submitted on 31 October 2022 and accepted for Examination on 28 November 2022.
- 1.1.2 Since the submission of the Application, the Applicant has continued to engage with stakeholders with a view to addressing their comments and agreeing common ground, while also continuing with detailed Project development.
- 1.1.3 The Applicant notified the Examining Authority, on 16 March 2023, of three proposed changes [Additional Submissions [AS-082](#) and [AS-083](#)] in response to ongoing landowner engagement. The Applicant subsequently, on 3 July 2023, notified the Examining Authority of two further proposed changes (and five planned amendments which would not require a formal request to change the application) [[PD023](#) and [PD024](#)] in response to feedback from landowners and Statutory Undertakers.
- 1.1.4 The Applicant now requests that a further two proposed changes are considered. These are minor in nature, which the Applicant considers would require a formal request to change the Application in accordance with Advice Note Sixteen: Requests to change applications after they have been accepted for examination (version 3) ('Advice Note Sixteen') (Planning Inspectorate, 2023).
- 1.1.5 This document constitutes Step 1 of Figure 1 of Advice Note Sixteen in which the '*Applicant decides to request a change to an application which has already been accepted for examination and informs the ExA [Examining Authority] in writing (the Change Notification), including the relevant information set out in Figure 2*'. The 'proposed changes' are described in Section 2 of this document.
- 1.1.6 The two additional 'proposed changes' are a result of ongoing discussions with interested parties and relate to:
- a. EC03 – a minor amendment to the Limits of Deviation in relation to a proposed WCH structure over the A127 to prevent any conflict with proposals for a new employment park (Brentwood Enterprise Park).
  - b. EC04 – the correction of the land use for plot 16-41 to reflect the requirement for the powers of permanent acquisition of subsoil and rights, and temporary possession of land at the surface of this plot. Currently, plot 16-41 is shown as required for permanent acquisition of subsoil and rights only, so does not include temporary possession of land at the surface.
- 1.1.7 The proposed changes EC03 and EC04 would not, individually or collectively, result in a materially different project (i.e. the development now being proposed is in substance the same as the development which was originally applied for)

and the Applicant considers that there is sufficient time for these changes to be accommodated in the Examination process.

- 1.1.8 The Applicant is notifying the Examining Authority of its intention to formally request a change to the Application (for the ‘proposed changes’ EC03 and EC04) and seeking advice from the Examining Authority on the procedural implications. More information on the formal change request can be found in Section 3.
- 1.1.9 The Applicant intends to carry out a targeted non-statutory consultation with Persons with an Interest in Land (PILS) in relation to the ‘proposed change’ EC04 only, prior to making the formal change request, having regard to the principles and process set out in Advice Note 16. Further details about the consultation are provided in Section 2.5.
- 1.1.10 The Applicant has considered the need for consultation on change EC03, and has concluded that consultation is not required on the grounds that:
- a. there is no change to the rights over land
  - b. there is no change to the environmental effects and therefore no change to the Environmental Assessment
  - c. the detailed design must be developed in accordance with Requirement 3 of the draft Development Consent Order [REP1-042]

## 1.2 Relationship with other proposed changes

- 1.2.1 On 16 March 2023, the Applicant submitted a notification of proposed changes [AS-083] which related to three proposed minor changes to the Application. The Minor Refinement Consultation, which sought feedback on these three proposed changes, concluded on 19 June 2023. These changes have not, as yet, been submitted to the Planning Inspectorate as a change request, but it is proposed that such a request will be made at or around Deadline 2 (3 August 2023).
- 1.2.2 On 3 July 2023, the Applicant submitted its Second Notification of Proposed Changes to the Planning Inspectorate [PD-024]. This comprised two further proposed changes EC01 and EC02 and five amendments, EA01-EA05. The Examining Authority responded on 14 July 2023 with a Procedural Decision-Provision of Advice. [PD-022]. The Applicant intends to reflect the proposed amendments in submissions at Deadline 3 and is currently consulting with relevant parties on the two proposed changes, with a deadline for comments at 23:59 on 16 August 2023. The Applicant intends to submit the changes for consideration at or around Deadline 4.
- 1.2.3 This Change Notification is therefore the Applicant’s third, and uses a change numbering system which continues on from the two changes in the second notification, “EC” standing for Examination Change, i.e.
- i. EC03 A127 WCH bridge Limits of Deviation
  - ii. EC04 Redesignation of land Plot 16-41.

## 1.3 Accommodating the changes within the Examination statutory timescales

- 1.3.1 The Applicant considers, subject to the Examining Authority’s agreement, that the proposed changes (like the five changes already proposed) can be accommodated within the statutory timescales of the examination for the following reasons:
- a. The proposed changes are not considered complex in nature.
  - b. There are no anticipated new or different likely significant adverse environmental effects compared to those reported in the Environmental Statement (ES).
  - c. The proposed changes do not involve the addition of any further land to the Order Limits.
  - d. The Applicant anticipates there will be very limited public/stakeholder interest due to the localised nature of the changes beyond the small number of affected landowners.
  - e. The Infrastructure Planning (Compulsory Acquisition Regulations) 2010 (the CA Regulations) do not apply to the changes referenced in this document (as set out in Section 4 of this report).
  - f. No consents, permits or licences require update as a result of the proposed changes and the proposed changes do not impede the securing of any consents, permits or licences required to undertake the Project.
  - g. The proposed changes do not alter compliance with National Policy Statement (NPS) policy.
- 1.3.2 The submission of the Change Application on or around Deadline 6 provides sufficient time to review and examine any relevant stakeholder comments relating to the proposed change.

## 1.4 Indicative programme

- 1.4.1 The indicative programme for the relevant steps for submitting the formal change request to the Examining Authority is set out in Table 1.1.

**Table 1.1 Indicative programme for formal change request**

Step	Indicative programme
Notification to the Examining Authority on the proposed changes	01 August 2023
Targeted non-statutory consultation on EC04 only	August-September 2023
Formal change application to be submitted to the Examining Authority	On or around Deadline 6 (Tuesday 31 October 2023)



Step	Indicative programme
Examining Authority decision on whether to accept the changes and how they should be examined	At the Examining Authority’s discretion

## 1.5 Structure of this document

1.5.1 The structure of this document is as follows:

- a. Section **Error! Reference source not found.**: Introduction – provides an introduction to the two proposed changes, including details on the relationship with the changes previously notified by the Applicant and an indicative programme for submission of the change application (in accordance with point 6 of Figure 2a of Advice Note 16). This section also includes information to establish how, in the Applicant’s view, consideration of the change request can be accommodated within the remaining examination timescales (in accordance with point 5 of Figure 2a of Advice Note 16).
- b. Section 2: Proposed changes – providing a description of, and justification for the two proposed changes including a statement on new or different likely significant environmental effects (in accordance with points 1, 2 and 4 of Figure 2a of Advice Note 16) and details of the land plots affected by the proposed changes. This section also provides details of the proposed approach to the non-statutory consultation and engagement (in accordance with point 6 of Figure 2a of Advice Note 16).
- c. Section 3: Proposed change application – sets out the information which would be contained within the proposed Change Application.
- d. Section 4: Compliance with the CA Regulations provides details on the land plots affected by the proposed changes and planned amendments in the context of the CA Regulations (in accordance with point 3 of Figure 2a of Advice Note 16).

## 2 Proposed changes

### 2.1 Overview of proposed changes

2.1.1 Table 2.1 provides a brief summary of the proposed changes and how they would represent an improvement to the Application.

2.1.2 Although it is not necessary to classify individual changes as ‘material’ or ‘non material’ it represents a useful indicator of the ability to accommodate the changes within the Examination. It is acknowledged that the final decision on materiality rests with the Examining Authority. Having regard to the likely environmental implications for each change and other relevant factors such as the land required to accommodate the change, the Applicant considers that each individual change is non-material and collectively (including in combination with the five minor proposed changes previously notified) would not result in a materially different project.

**Table 2.1 Summary of proposed changes**

Change code	Title of change	Brief summary	Materiality assessment	Improvement to the Application
EC03	A127E WCH bridge- Limits of Deviation	<ul style="list-style-type: none"> <li>• Increase in Limits of Deviation to the north of the WCH bridge over the A127, to the east of the M25 junction 29, to allow for a proposed bridge to be constructed by Brentwood Enterprise Park, should that be granted planning consent.</li> <li>• No Land Use categorisation changes</li> </ul>	Non-material	Change made to accommodate proposed development in response to landowner and stakeholder concerns
EC04	Redesignation of land Plot 16-41	<ul style="list-style-type: none"> <li>• Correction of land designation to also include temporary use of land to allow construction of public right of way, which was identified elsewhere in the original application</li> </ul>	Non-material	To enable construction of a proposed public right of way

### 2.2 Need for and description of proposed changes

2.2.1 In accordance with the requirements of points 1 and 2 of Figure 2a of Advice Note Sixteen, this section provides a description of the proposed changes and the rationale and pressing need for making the changes during the examination period.

#### **EC03 – A127E WCH Bridge - increase in Limits of Deviation**

2.2.2 Proposed change EC03 seeks additional flexibility to increase the Highway Works horizontal Limits of Deviation by approximately 580 sqm to the north of the A127E WCH overbridge to avoid any conflict with the delivery of a new

vehicle bridge proposed by St Modwen, as part of the Brentwood Enterprise Park (BEP).

- 2.2.3 The Applicant's A127E WCH bridge is as described under Work No. 9Z of Schedule 1 of the draft Development Consent Order [[REP1-042](#)] and shown on sheet 45 of 2.6 Works Plans (Volume C) Composite (Sheets 21 to 49) [[APP-020](#)]
- 2.2.4 St. Modwen has submitted a planning application ([22/00402/FUL](#)) to Brentwood Borough Council for a new employment park – Brentwood Enterprise Park – on land to the south-east of the M25 junction 29. The outline design proposes a new vehicle bridge across the A127, to the west of the Applicant's proposed WCH ramp and bridge structure, and to the east of the existing single lane bridge.
- 2.2.5 The Applicant has, and will continue to, engage with St Modwen, the landowner and other parties throughout the detailed design of both projects, to ensure a coordinated approach to implementation is taken. To allow a reasonable amount of flexibility in the detailed design for the Applicant to accommodate the BEP bridge the Applicant seeks to increase the Limits of Deviation to the north of the A127E structure.
- 2.2.6 The land required for the proposed increase to the Limits of Deviation is already identified for permanent acquisition in the Land Plans - Volume C - (Sheets 21 to 49) [[REP1-011](#)] so there is no change to land requirements. The change would not involve any modification to the vertical limits of deviation and would not result in any new or materially different environmental effects.

#### **EC04 – Redesignation of land Plot 16-41**

- 2.2.7 The Applicant has identified the need to correct the land use for plot 16-41. This plot is located north of the River Thames, above the tunnel limits of deviation, in Thurrock, and it is shown in the Application on sheet 16 of the Book of Plans drawings, namely the Land Plans [[AS-008](#)].
- 2.2.8 In the Development Consent Order Application, powers were sought for the permanent acquisition of subsoil and rights in connection with Work no. 4A, the construction of the new A122 LTC tunnels. Whilst this is correct (plot 16-41 is within the alignment of the tunnels and the Limits of Deviation) this plot should have been shown as land required for the permanent acquisition of subsoil and rights, *and* temporary possession of land at the surface. This is because it is also required for temporary works: Work No. 5O and Work No. CA5, as shown in the Works Plans [[AS-024](#)] and detailed in Schedule 1 of the draft Development Consent Order [[REP1-042](#)]. Work No. 5O being the construction of a new public right of way along the existing footpath FP146 and Work No. CA5 being the temporary establishment of the construction compound for facilitating main works at the A122 Lower Thames Crossing north portal and tunnel approach.
- 2.2.9 This change therefore entails the correction of an error, but as it would involve the need for further temporary possession of land at the surface, the Applicant is making a formal request to make the change.

## 2.3 Land Plot changes

- 2.3.1 For change ECO3 there are no changes to or introduction of new land plots.
- 2.3.2 For change EC04 there are no changes to the size or shape of the land plot. The land use for the plot, as set out below in Section 4, will change from "permanent acquisition of subsoil and rights" to "permanent acquisition of subsoil and rights and temporary possession of land at surface".

## 2.4 Environmental appraisal

- 2.4.1 In accordance with point 4 of Figure 2a of Advice Note 16, the Applicant has undertaken a review and appraisal of the proposed changes in the context of all topics within the Environmental Impact Assessment to consider if either is expected to result in any new or different likely significant environmental effects to those reported in the Environmental Statement [[APP-139](#) to [APP-485](#)].

### EC03 – A127 WCH Bridge - increase in Limits of Deviation

- 2.4.2 The proposed increase in Limits of Deviation does not change the proposed land use at this location.
- 2.4.3 The proposal would not alter the conclusions of significance presented in ES Chapters 5–16 [Application Documents [APP-143](#) to [APP-154](#) and Additional Submission [AS-044](#)] either during construction or operation.
- 2.4.4 The Applicant concludes that change EC03 – A127 WCH Bridge – increase in Limits of Deviation would not result in any materially new or materially different likely significant environmental effects.

### EC04 – Redesignation of land Plot 16-41

- 2.4.5 The proposed change is a correction to land use to include temporary use powers to construct Work No. 5O and Work No. CA5, as shown in the Works Plans [[AS-024](#)] and detailed in Schedule 1 of the draft Development Consent Order [[REP1-042](#)]. Work No. 5O being the construction of a new public right of way along the existing footpath FP146 and work no. CA5 being the temporary establishment of the construction compound for facilitating main works at the A122 Lower Thames Crossing north portal and tunnel approach. These have already been assessed in the Application and have not changed.
- 2.4.6 The Applicant concludes that change EC04 – Redesignation of land Plot 16-41 would therefore not result in any materially new or materially different likely significant environmental effects.

## 2.5 Proposed consultation on change EC04

### Introduction

- 2.5.1 The Applicant intends to carry out a non-statutory consultation with those PILs affected by change EC04 (Redesignation of land Plot 16-41) so they are made aware of the change and have the opportunity to provide comments in advance of any submission of the formal change request to the Examining Authority.
- 2.5.2 The Applicant seeks the views of the Examining Authority on the scope and nature of the proposed landowner consultation. This is outlined below.

### Proposed consultation activities

#### Scope of consultation

- 2.5.3 The targeted consultation with PILs will be limited to EC04. There will be a summary description of the proposed change, what it is, why it is needed and what the impacts, including environmental, would be.

#### Consultation activities

- 2.5.4 Advice Note Sixteen advises at paragraph 2.3 that: *'In the interests of fairness, it will normally be necessary for applicants to consult on a proposed change to an application. The ExA will advise the Applicant about the need, scale and nature of consultation that may need to be undertaken in response to the Applicant's Change Notification'* and at paragraph 3.3 that *"...Before making any Change Application (see Step 4 of Figure 1) the Applicant should have carefully considered the need to consult on the proposed change, taking account of any procedural advice provided by the ExA in response to the Change Notification (see Step 2 of Figure 1) and the provisions of the CA Regulations. The ExA will provide advice about who it considers should be consulted, but as a starting point the Inspectorate recommends that applicants should consult all those persons prescribed in the PA2008 under section 42 (a) to (d) who would be affected by the proposed change (giving a minimum of 28 days from the receipt of the information for responses). If a targeted approach to the identification of those affected by the request to change the application is adopted then detailed justification should be provided why it is deemed unnecessary to consult all of the prescribed persons (for example, in the case of Statutory Undertakers, by confirming that the proposed change would not affect their functions).*
- 2.5.5 The Applicant is taking a targeted approach to this consultation. The proposal is for a land designation change in one discreet area associated with the proposed change. There are no material changes to environmental effects previously assessed and reported in the Application as a result of this change.

- 2.5.6 Consequently, the Applicant is proposing a targeted approach of writing to those PILs who are affected by this proposed change. The Applicant is proposing a similar format to the previous tranche of landowner consultations conducted as detailed in [PD024](#). This will take the form of an explanatory letter and accompanying figures.
- 2.5.7 The consultation activities are proposed to include the following:
- a. Those PILs directly affected by change EC04 will be written to informing them of the consultation and how they can provide feedback.
  - b. There will be an explanatory letter and accompanying figures for EC04 and a response form. Responses to the consultation can be submitted via email or post.
  - c. Letters will be issued physically.
  - d. Relevant local authorities will be notified of the PILS consultation shortly before launch.

### Summary of consultation responses

- 2.5.8 A summary of the consultation responses will be submitted with the formal change application confirming who has been consulted in relation to the proposed change and how they have been consulted in accordance with Advice Note Sixteen. The summary of consultation responses will also set out the feedback received and how the Applicant has considered this feedback.

## 3 Proposed Change Application

- 3.1.1 Should the Applicant progress with a formal change request in respect of the two proposed changes identified in Section 2 of this document following procedural advice from the Examining Authority and consultation (under Steps 2 and 3 of Figure 1 of Advice Note 16) the request will, in accordance with Figure 2b of Advice Note 16, include:
- a. Information on the proposed change, including:
    - i. A confirmed or updated description of the proposed change
    - ii. A confirmed or updated rationale and explanation of the pressing need for the proposed change
    - iii. 'Before' and 'after' excerpts of the relevant plans/drawings
    - iv. Information about any new/altered works
    - v. Implications for compulsory acquisition/temporary possession of land
  - b. A full schedule of all DCO application documents and plans listing reviews to each document/plan or a no change statement
  - c. Identifying if there is any impediment to securing any consents/licences required (alongside the draft Development Consent Order [[REP1-042](#)])
  - d. Clean and tracked changed version of the draft DCO and a revised Explanatory Memorandum
  - e. Implications for compulsory acquisition/temporary possession of land and if the CA Regulations are engaged and if so the information prescribed by Regulation 5 of the CA Regulations
  - f. Environmental appraisal of the proposed changes including the assessment individually and cumulatively, and any publicity in accordance with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations)
  - g. A Consultation Report providing details of the engagement and consultation on the proposed changes and how they have been considered, attaching copies of the responses received.



## 4 Compliance with the Infrastructure Planning (Compulsory Acquisition) Regulations 2010

4.1.1 As explained earlier in this document the effect of the two ‘proposed changes’ is that the Applicant would be seeking further powers of temporary possession only over land within the Order Limits in relation to change EC04. The impacted plot is identified in **Table 2.2** below.

**Table 2.2 Changes to land plot designation affecting permanent rights**

Change Code	Land Plot	Existing land designation	Proposed new land designation
EC04	16-41	Permanent acquisition of subsoil and rights	Permanent acquisition of subsoil and rights, and temporary possession of land

4.1.2 Neither of the changes would, therefore, engage the requirements of the CA Regulations.



## References

Department for Communities and Local Government (2015). Planning Act 2008: Guidance on Changes to Development Consent Orders.

Planning Inspectorate (2023). Requests to change applications after they have been accepted for examination (Version 3, March 2023). Accessed June 2023.

<https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/advice-note-16/>.

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