

23 August 2023

The Planning Inspectorate
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

**A122 LOWER THAMES CROSSING (REF: TR010032)
DEADLINE 3 WRITTEN REPRESENTATIONS**

REPRESENTATIONS ON THE APPLICANT'S DRAFT DEVELOPMENT CONSENT ORDER

We write on behalf of all our clients affected by the Lower Thames Crossing in respect of *9.63 Applicant's response to IP comments made on the draft Development Consent Order at Deadline 1*. Set out below are the relevant Affected Party references for which this submission is made:

AP1308, AP1369, RR20035279, AP1717, AP1663, AP1305, AP1235, RR20035237, AP1450, AP1631, AP1581, AP1266, RR20035735, AP1539

- (i) Article 8 – Consent to transfer benefit of Order** – we remain concerned as to the unexpected consequences of a transfer of benefits of the Order to Code Operators under the Digital Economy Act 2017. We do not consider that the Applicant has fully addressed this issue in their response – in light of our Deadline 1 submissions as to the effect of Code agreements on freehold interests where these do not currently apply and where they may apply as a consequence of the Project works.
- (ii) Article 13 – Use of Private Roads** – we request a view from the ExA as to whether our clients can rely on the Explanatory Memorandum ('EM') wording as a formal, legal undertaking. Is the Explanatory Memorandum expected to form part of the DCO and/or if disputes arise, what legal status would the EM have as part of the DCO?
- (iii) Article 28 – Restrictive Covenants and Transfer** – whilst we acknowledge the Applicant will be conferring the benefit of the Order on statutory undertakers, where significant detail will only be available in the Design and Build phase of the Project and the general reference to Utility Works

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in the Statement of Reasons, we do consider that the general utility reference should be expanded to detail each utility requirement for the purposes of clarity.

For example, with reference to Plot 23-153, the Statement of Reasons sets out the following:

CA5 and MUT6 - Acquisition of rights required for: Temporary construction compound at surface for facilitating main works at the A122 Lower Thames Crossing north portal and tunnel approach, including workers accommodation, batch plants and segment cast factory 23-153 Utility works, including the installation or diversion of underground utilities within a multi-utility corridor, and the rights and restrictive covenants to construct, protect, operate, access and maintain those utility works

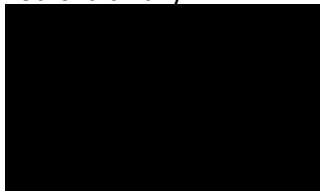
We are of the understanding that this plot forms part of the proposed route of the temporary water pipeline from the Linford borehole. However, the Statement of Reasons makes no reference to this, simply the general reference to utility works.

Given the issues we have raised in respect of the temporary use of this pipeline and the fact that permanent rights are sought for what is only a temporary requirement, a more detailed summary of which utility works a plot is subject to, we suggest, would assist affected parties to understand impacts on those specific plots.

- (iv) **Articles 25-34 – CA, TP and related powers** – we welcome the Applicant’s undertaking in their response that they will seek to mitigate the impacts on retained land and furthermore that rights in respect of temporary possession land will be extinguished at the earliest opportunity. If Affected Parties are to accept this position, we seek clarification from the Applicant and the ExA on what routes of challenge are available to affected parties post the grant of the DCO and during the detailed Design and Build Phase of the Project, if we consider that land has not been returned at the earliest opportunity.
- (v) **Article 40 – Special Category Land** – we note the Applicants response under 5.8.2. With reference to provisions of the Planning Act 2008 that make it permissible for the freehold land of a third-party landowner who has no interest in the existing common land (in this case, Tilbury Green) to be subject to the imposition of common land, do the ExA consider that it is appropriate in this instance to deprive that third party freeholder of his land for the purposes of this Project?

We look forward to further communication from the Applicant and the ExA in respect of the above.

Yours faithfully



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