

Lower Thames Crossing

**Thurrock Council Comments on Applicant's Submissions at Deadline 1 and 2
(D1 and D2)**

Council's Minor Refinement Consultation (MRC) – Appendix A

Thurrock Council

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Lower Thames Crossing

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

Minor Refinement Consultation (MRC) – Thurrock Council Response

19 June 2023

On behalf of **Thurrock Council**

 **thurrock.gov.uk**

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1 Introduction

1.1 Context

- 1.1.1 National Highways (NH) re-applied in October 2022 for a Development Consent Order (DCO) to construct and operate the Lower Thames Crossing (LTC), which is approximately 14.3 miles (23 km) of new road connecting the existing road network from the A2/M2, south-east of Gravesend, to the M25, to the north of North Ockendon. The scheme incorporates two 2.6-mile (4.3 km) tunnels under the River Thames and associated modifications to the M25, A2 and A13, and free flowing charging systems. It should be noted that the LTC route (and its Order Limits) through Thurrock accounts for circa 10% of the land area of the Borough. Thurrock would accommodate approximately three quarters (i.e. approximately 14 kms of its full 18.75kms) of the linear above-ground route (4.25kms is in tunnel).
- 1.1.2 The road scheme is classified as a Nationally Significant Infrastructure Project (NSIP) and there are a further four utility relocation NSIPs within the DCO application, therefore consent is being sought via a DCO under the Planning Act 2008 (PA 2008) and the Planning Inspectorate (PINS) is now considering the application on behalf of the Secretary of State for Transport.
- 1.1.3 At the end of 2018, Highways England (now renamed NH) presented its '*Statutory Consultation Scheme*' for the proposed LTC. A series of design changes was the subject of a Supplementary Consultation exercise which ended in April 2020. A further round of Design Refinement was the subject of non-statutory consultation, undertaken virtually, from 14 July to 12 August 2020. NH made its submission of its first DCO (DCOV1) in October 2020. Subsequently, following discussions with PINS, it withdrew DCOV1 application in November 2020. A further significant Community Impacts Consultation was held from 14 July to 8 September 2021. It was undertaken virtually and at in-person events in response to the Covid-19 pandemic and comments from PINS. A further round of Local Refinement Consultation (LRC) was held from 12 May to 20 June 2022. It was undertaken virtually and at in-person events. Following the re-submission of the DCO application in October 2022, PINS 'accepted' the application in November 2022 and the pre-Examination period commenced. This new round on consultation entitled 'Minor Refinement Consultation' (MRC) commenced on 17 May until 16 June 2023, with submissions due to NH by 19 June 2023, all during the pre-Examination period. The MRC consultation involves three changes to the scheme and a potential change to the construction methodology that may have significant impacts.
- 1.1.4 **Commentary on Consultation Process** – since the Statutory Consultation in 2018 there has been an aborted DCO application and now a further five rounds of non-statutory consultation. The LTC scheme has changed significantly in the five years since the Statutory Consultation in 2018. The changes have been presented to the public in a piecemeal manner through many rounds of consultation focussed on changes to the scheme. This has created significant 'consultation fatigue' where residents and businesses affected by the scheme have become disengaged, and in many instances, consultation apathy has set in. Thurrock Council ('the Council') is concerned that there is a presumption in NH communications that assumes the majority of people are supportive of the scheme with only the minority expressing concern. The Council asked Survation, one of the UK's most respected market research companies, to survey Thurrock residents and find out their views. The results are clear. Most of those residents who Survation spoke to are aware of NH proposals for the LTC and share the concerns Thurrock Council has about the current plans. It was evident from the research, carried out in 2022, that most Thurrock residents:
- a. Do not consider the Lower Thames Crossing will have a positive impact on the local area;
 - b. Consider that the severity of disruption caused to the local area over several years will outweigh the claimed benefits of the LTC;

- c. Insist that National Highways must be transparent about the impacts of the Lower Thames Crossing; and,
 - d. Consider that the estimated reduction in traffic congestion at the Dartford Tunnel forecast by NH is not enough to justify the proposed Lower Thames Crossing.
- 1.1.5 So, in summary, the manner in which NH has undertaken continuous rounds of piecemeal consultation on amendments to the scheme has confused the public and eroded trust that this scheme will deliver on all of its objectives.
- 1.1.6 This report from the Council provides a review of the material presented as part of the Minor Refinement Consultation (MRC) exercise being undertaken by NH. Its purpose is to identify areas of concern, potentially significant issues and identify areas of further work required to be conducted by NH in order to allow the scheme to be properly and proportionately assessed and mitigated.
- 1.1.7 Overall, the Council has continued actively to engage with NH. However, based upon the consultation materials available, the information presented in the MRC by NH is slim, lacking in any technical materials and often missing key data. It is not supported by evidence that is required for stakeholders, including the Council, to provide an informed response to the proposed design and the wider scheme. Progress by NH on the traffic modelling, air quality and noise assessments and environmental and health impact assessment work has been slow and is still being reviewed. The result of this is that the Council's ability to engage with NH on the technical analysis of potential effects of the scheme during both the pre application and pre-Examination periods has been so constrained by NH to render it unproductive. Consequently, it has not been possible to appropriately evaluate the effectiveness of any mitigation proposals.
- 1.1.8 This Review of Minor Refinement Consultation sets out all the Council's concerns. The Council's comments in the following Review have been restricted to the following three reasons to comment, in order to meet the requirements of the Consultation:
 - a. Comments that arise directly from the Consultation documents ('Minor Refinement Consultation').
 - b. Missing information and data that has not been included in any of the consultation documents that are significant enough to draw attention to is highlighted, relevant to the topics covered in the MRC. It should be stressed though that there are many other outstanding issues.
 - c. Comments that have been made by the Council in previous consultations and which have not been dealt with either in this consultation or so far more broadly.

1.2 Document Structure

- 1.2.1 This report is structured, as follows:
 1. **Section 2** provides a Summary of the Council's Outstanding Technical Issues as contained in documents submitted within the DCO application and during the Pre-Examination period.
 2. **Section 3** contains four sub sections and sets out detailed technical comments on all aspects of the Minor Refinement Consultation.
 3. **Section 4** sets out key recommendations and next steps.

1.3 Overview of Council's Overall Position on LTC

- 1.3.1 As with the four previous rounds of non-statutory public consultation, the Council's position is one of objection in principle to the LTC scheme as it fails to strike an acceptable balance between national benefit in relation to substantial harm to the Borough. This position is unlikely to change as a result of the current proposals, which currently delivers very little benefit for local people and does not deliver on NH's own scheme objectives '*to support sustainable local development and regional economic growth in the medium to long term*' or to '*minimise adverse impacts on health and the environment*'.
- 1.3.2 The Council has continued to engage with NH in order to fulfil its statutory obligations and to protect the interests of the Borough. This is important in order to comply with PINS Advice Note Two: '*The role of local authorities in the development consent order process*'. This states at paragraph 6.2 '*Local authorities should engage proactively with a developer even if they disagree with the proposal in principle... Local authorities are not undermining an 'in principle' objection to a scheme by engaging with a developer at the pre-application stage*'. With this in mind, the Council has negotiated a Planning Performance Agreement (PPA) Variation in place with NH for the Pre-Examination and Examination periods, which will provide some financial support for resources needed to respond and engage with NH on technical matters. This aligns with the Council's usual practice for major development applications within the Borough.
- 1.3.3 The Council has consistently set out in consultation responses its key issues with the scheme. In February 2021, the Council published its Hatch Report entitled '*LTC Mitigation Benefits*', which set out in some detail the 58 mitigation, avoidance and compensation measures that it required should the scheme proceed.
- 1.3.4 The Council has continued to engage with NH to achieve the measures identified in the Hatch Report through the DCO securing mechanisms and other means, which necessarily will involve much discussion and some compromise. The Council has also engaged with NH on a range of technical matters, inter alia, the transport implications of alternative scheme layouts; impacts on and operation of the local road network; integration with Local Plan growth, housing, and infrastructure; provision for public transport and active modes; provision for future crossings of the LTC; construction traffic and materials handling; traffic management; health impact; climate change; health and equalities; and, emergency services.
- 1.3.5 However, progress on agreeing measures for mitigation, avoidance or compensation of impacts has been slow and difficult, with very little movement on significant measures and the necessary collaboration and engagement from NH to resolve such matters has been mixed. There are no clear signals that NH is sufficiently invested in a commitment to achieve an improved level of support from the Council as main host local authority to LTC prior to the DCO Examination on 20 June 2023. In its detailed and ongoing analysis of LTC the Council is of a strong view that the extent of local disbenefit arising from the scheme is not outweighed by the scheme's claimed/forecast strategic benefit. It will therefore maintain its opposition, whilst negotiating these measures and other scheme improvements, without compromising this overall position.
- 1.3.6 The Council's constructive opposition is to the general configuration, proposed purpose and details of the proposed route, as set out previously, not necessarily opposition to the principle of a further Thames crossing to improve accessibility across the Estuary, recognising this does not alter the 'in principle opposition' stance.

2 Summary of the Council's Outstanding Technical Issues

- 2.1.1 The number of outstanding issues between NH and the Council are set out in the unapproved and unsigned but submitted with the DCO application's Statement of Common Ground (SoCG). The outstanding issues are further supplemented by the Council's Relevant Representation (RR) (PDA-009) and Principal Areas of Disagreement (PADs) Summary Statement (PDA-008) submitted to the Examining Authority (ExA) on 4 May 2023.
- 2.1.2 In addition, the Council has made further submissions to the ExA (at Procedural Deadlines B and C (PDB and PDC)) on its 'Initial Assessment of Principal Issues' on 26 May 2023 and its requested Supplementary Submission on 9 June 2023, which offered further detail (sources and commentary on requested additional issues) and commentary on 'Recent Technical Data, Guidance and Methodological Assumptions'. Then, in its PDC submission on 13 June the Council set out further commentary on the forthcoming Issue Specific Hearings 1 and 2 (ISH1 and ISH2) and comments on the Accompanied Site Inspection (ASI), prior to the release of the ISH1 and ISH2 agendas by the ExA.
- 2.1.3 The Council will set out more detail of its issues and detailed assessment of the impacts of the LTC within its forthcoming Local Impact Report (LIR).

3 Summary on Proposed MRC Changes

3.1 Introduction

- 3.1.1 This Section is based only on the booklet entitled '*Minor Refinement Consultation*' (which is 37pp) and which is the only document under consideration within this consultation. This consultation was originally proposed by NH in its cover letter and submission to the ExA dated 16 March 2023 (AS-082 and AS-083) and formally accepted by the ExA in its Procedural Decision dated 21 March (PD-011).
- 3.1.2 The booklet sets out in its Chapter 3 three changes that NH are seeking feedback on and the consequential Order Limits changes, plus Chapter 4 provides a construction update in how the tunnels beneath the River Thames could be constructed, which is not itemised as being a change or requiring feedback. **The Council contends that this is a change and requires it to be formally part of the MRC consultation and scrutinised carefully.** This need for further information and scrutiny would appear to be supported by the ExA as it set out a question (Item c) ii) within its published ISH1 agenda (EV-014): '*What is the effect on construction duration and environmental effects of the proposed use of a single tunnel boring machine (TBM).*'

3.2 Reduction of Nitrogen Deposition Compensation Area and Order Limits at Blue Bell Hill and Burham (MRC01)

- 3.2.1 Whilst the Council has no comments on this proposal as it affects land south of the River Thames, it will have comments within its LIR on the lack of a clear methodology for the assessment of Nitrogen Deposition Compensation Areas, which in turn affects how the amount of compensatory land has been calculated.
- 3.2.2 Within the Council's response to the LRC dated June 2022, it commented in Section 4.11.1 that '*No detail has been provided regarding the methodology for quantifying the predicted emissions or for determining what levels of mitigation would be required.*' Consequently, at that time, it was not possible to assess the robustness of the assessment and proposed mitigation and compensation. The mitigation hierarchy requires that avoidance and mitigation be fully considered before compensation measures are adopted at a final level. No detail has been provided setting out the reasoning why measures such as lower speed limits could not be enforced along the route. The Council wishes to see the detailed evidence justifying the proposed approach.
- 3.2.3 Furthermore, with Section 4.11.8 of its LRC response the Council stated '*It is essential that Thurrock Council is involved in development work to ensure that these schemes deliver appropriate new habitat and wider green infrastructure benefits that accord with the Council's emerging Local Plan. We therefore request an additional DCO Requirement to cover such controls and discussions.*' To date, this has not been achieved and no further discussions with NH have taken place.

3.3 Increase in Limits of Deviation (LOD) for the Northern Tunnel Entrance Headwall (MRC02)

- 3.3.1 Whilst the Council do not have any substantial comments on this proposals, which has limited consequential effects on the Council's land and remains within the proposed Order Limits, it does have a question that require a response from NH:
- a. On Page 13 it states '*Benefits of this change would include a reduction in the amount of material required for construction and the volume of excavated material.*' On Page 17 it refers to these reductions as 'minor', but not affecting the ES Chapter 11 (APP-149)

conclusions. The Council request that NH provides these calculations in order to show the evidence for this claim.

3.4 Revised Utility Proposals at East Tilbury (MOC03)

- 3.4.1 There are three proposed changes set out in the NH booklet in descriptions and map form:
- Reduced land and relocated route to install the temporary Linford water pipeline and the relocation of the Muckingford Road Utilities Logistics Hub (ULH), resulting in reduced Order Limits (Figures 3.6 – 3.7);
 - Relocation of Low Street ULH (Figures 3.6 – 3.7); and,
 - Land use change west of Linford (Figures 3.8 – 3.9 References 3 and 4) from temporary possession to temporary possession and permanent acquisition of rights.
- 3.4.2 The Council has no objection to these changes, which result in a smaller combined ULH, reduced Order Limits, removal of 17ha of Grade 3a and 3b soils from the Order Limits and reduced impact to nearby residents.
- 3.4.3 However, it would involve a consequential change to REAC RDWE054. Therefore, the Council requires NH to explain the potential changes to groundwater effects of the realignment of the Linford water pipeline, in order to assess their impact and significance; and, to assess if the proposed changes to RDWE054 redress these changes?
- 3.4.4 In addition, NH should confirm to the Council the effect of the changes to the Order Limits and land use and if/how it may affect any Council-owned land; and, if so, how?

3.5 Construction Update for Tunnels

- 3.5.1 This is described in just one page with a further 2.5 pages assessing in summary the likely environmental effects, with no supporting maps or diagrams. In itself this is considered by the Council to be insufficient and inadequate.
- 3.5.2 Following the conclusion of this MRC consultation, NH will review responses and will need to make changes to its application documents. As there is only one month from the end of the consultation period until Deadline 1 on 18 July 2023, it seems unlikely that the changes can be both published and reviewed, especially by host/directly affected local authorities prior to the submission of their LIRs. **It is therefore not clear how this consultation will affect the Examination timetable and the Council requires NH to set out its proposed timetable for completion of its consultation response review and its publication of amendments to the DCO application.** The Council will then be able to determine how and when it might respond to such changes.
- 3.5.3 Following a review of this very limited information, the Council is unsure of the effects/impacts of this proposal within the Borough and sets out below a number of questions and concerns that need to be addressed by NH and considered by the ExA once changes to the DCO application are published. These questions/concerns arise despite and following the NH briefing on 22 May 2023 and are grouped under suitable topic heading below.

Overall

- The Council requires a clear demonstration from NH, with evidence, that there are no additional or changed significant adverse environmental effects due to this potential change in construction methodology. This should include changes in air quality (minimal changes are expected, as stated by NH on page 31 of the MRC booklet), noise and construction transport activity.

- b. In the current DCO application, there are a number of significant adverse effects to non-designated archaeological assets (as currently reported in the ES Chapter 6 (APP-144)). The Council requests information to determine whether this potential change in construction methodology offer any opportunities to reduce these effects and if not, why not?

Proposal Definition

- a. NH to confirm how, under the revised tunnelling strategy, the TBM will be removed from the northern main compound following completion of tunnelling and if nearby ports would be used to transport the TBMs) to and from the site?
- b. Does the optional method of using one TBM have any reduced effects on Thurrock by displacing any movements into Gravesham BC?
- c. NH to explain the cost reduction in using one TBM and if this affects the transport business case or overall Benefits Cost Ratio (BCR)?
- d. Are there any changes to the source and direction of water and power supplies for operation of the TBM?

Excavated and Construction Materials

- a. Calculations and evidence are required to demonstrate the claim that there will be a reduction in material use and a requirement for less machinery. The likely materials would seem to include pre-cast segments, pre-cast road slabs, ready mix, grout, pipework and rails and sundries and there may be further craneage, additional pumps and MEICA equipment required – where will these plant and materials be stored or used?
- b. Calculations and evidence are required to demonstrate the claim that there will be a reduction in approximately 38,000 tonnes of carbon (CO₂e) by using less machinery, reduced hardstanding and smaller slurry treatment and segment production facilities, as stated on pages 30 and 33 of the MRC booklet?
- c. NH should provide greater clarity and detail regarding the treated tunnel material and segments, their use together with information setting out the timing of that use (given it is likely to be slower)? This should reflect how that material will be stored and deposited within the Order Limits.
- d. NH to confirm that all arisings from the tunnel will be entirely used within the confines of the northern main compound CA5/5A and not either along the construction ‘trace’ (construction haul road along the LTC alignment) or in landscaping works? The Council also requires a commitment within the oMHP that such arisings are not taken off-site or along the trace to ensure its appropriate use, unless it can be demonstrated that the material is suitable for landscaping and confirmation of the location for its use.
- e. Where are the segments stored and then delivered to the northbound TBM when they are due to be cast in Tilbury? Is the segment production and delivery the same as for the option with two TBMs? It is noted that following initial reviews of the DCO application documents, which is the evidence before the ExA, it seems to be silent on the production location of the tunnel segments.

Construction Method and Transport

- a. The proposed differences in construction programme between one or two TBM’s needs to be set out in indicative detail and compared, so as to evidence the claim that the construction programme would remain the same?

- b. Please offer more clarity and detail as to how the tunnelling can start approximately 10 months earlier, as claimed on page 30 of the MRC booklet? Furthermore, by bringing forward the tunnelling start does that affect any other construction activities, such as the haul road establishment?
- c. Please set out exactly what the 'small number of differences in logistics' would be, as claimed on page 30 of the MRC booklet?
- d. Please explain with evidence what changes in arrangements for staff vehicles and deliveries would occur at each compound and how these will be accounted for in any revised Transport Assessment? In particular, greater detail is required of '...an increase in journeys related to construction in the second year of building LTC' (as stated on page 30) and how this will be accounted for in any revised Transport Assessment?
- e. NH to set out the construction method including the turning of the TBM and transport of materials, supported by diagrams, especially the route of multi-service vehicles (MSV)? Also, if undertaking such changes result in increased or reduced activity at either the northern or southern main compounds?
- f. Is there any change to the method or timing of construction of the cross passages as a result of using one TBM and does this affect the construction programme?

Worker Operation

- a. Page 30 of the MRC booklet sets out that staffing patterns would change at the northern and southern compounds, so NH must set out these changes, any differences in staffing numbers between the use of one or two TBMs (and at what stage) and any consequential effects on the surrounding areas?
- b. NH to explain in detail if workers all approach these works via the northern compound or if some workers approach from the southern compound; and, does this result in the need for less accommodation in the northern compound? This may have an impact on worker transport routes, numbers and impacts on nearby communities.
- c. How will safety be managed for workers who will be transported through the first bore along with the 'slurry pipeline', water and power and transport of other materials and will such worker movements will be two way or separated from other activities?

DCO Commitments and Control

- a. There is currently no mechanism within the DCO to control the main contractor's proposals on the use of two or one TBM(s) and their consequential effects/impacts. In the Council's view controls need to be in place to protect residents and businesses from potential impacts of changed construction methodology, even if no significant environmental effects are predicted. The Council needs to understand how will such decisions and methods will be controlled, so that different boring methods or spoil disposal are controlled by DCO commitments.
- b. The DCO application document that sets out the method for constructing the tunnel, i.e. primary lining via segments cast in a factory in Tilbury, needs to be clear and defined.
- c. Will there be controls within the DCO application 'control documents' to restrict the main contractor from making any deliveries, extractions or worker transport via the southern compound and portal? Are there opportunities that the TBM could be removed from the northern compound by river via a nearby port? This should be an additional DCO commitment to reduce both 'abnormal indivisible loads (AIL) and materials transport and commit to not using local roads for such transport.

- d. The Council considers that NH should take this opportunity to improve significantly its commitments to using non-road transport to move materials, equipment and plant to and from the project compounds.

Emergency and Incident Provision

- a. NH must set out what provisions it will make if there is an incident or emergency in either tunnel bore during construction at either end of the tunnels? This should be a further DCO commitment that would require the involvement and approval of the emergency services.

4 Recommendations and Next Steps

4.1 Recommendations

- 4.1.1 The Council strongly recommends that NH enters into detailed discussions about all comments made within this Review to ensure that meaningful engagement about all issues is undertaken prior to making any amendments to the current DCO submission.
- 4.1.2 Furthermore, it is imperative that the Council understands NH's position on each issue / comment raised and has opportunities for discussions with NH on all matters, prior to making any amendments to the current DCO submission, which should then be followed by a written response from NH to the Council's comments. Notwithstanding this, all the issues raised in this MRC Review will need to be included within updated SoCG, at either Deadline 1 or 2.

4.2 Next Steps

- 4.2.1 The Council considers that most of the NH 'control' documents are not technically adequate, do not follow best practice and do not offer either sufficient detail or adequate commitments that can be relied upon by the Council and the public following any DCO grant – these concerns will be set out in more detail in the Council's LIR. The Council strongly recommend significant amendments.
- 4.2.2 This Review summarises the Council's main issues/comments. The Council therefore recommends that the requested discussions with NH focus on this Review.