

Lower Thames Crossing

9.89 Responses to the Examining Authority's ExQ1 Appendix J – 14, 15, 16

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1 Introduction

1.1 Introduction

- 1.1.1 This document has been prepared by the Applicant to set out its responses to the Examining Authority's (ExA's) first round of written questions [[PD-029](#)]
- 1.1.2 These can be found in Tables set out under the following headings:
- a. Climate Change and carbon emissions (found in Appendix A)
 - b. Consideration of alternatives (Found in Appendix A)
 - c. Traffic and transportation (Found in Appendix B)
 - d. Air quality (Found in Appendix C)
 - e. Geology and soils (Found in Appendix D)
 - f. Waste and materials (Found in Appendix D)
 - g. Noise and vibration (Found in Appendix E)
 - h. Road Drainage, water environment and flooding (Found in Appendix F)
 - i. Biodiversity (Found in Appendix G)
 - j. Physical effects of development and operation (Found in Appendix H)
 - k. Social, economic and land-use considerations (Found in Appendix I)
 - l. Draft Development Consent Order, planning obligations, agreements and adequacy of security (Found in Appendix J)
 - m. The acquisition and temporary possession of land and rights (Found in Appendix J)
 - n. General overarching questions (Found in Appendix J)

2 Responses to the Examining Authority's ExQ1 14

No questions addressed to the Applicant for this topic.

3 Responses to the Examining Authority's ExQ1 15

PINS ID	External Stakeholder (where applicable)	Question / Response
ExQ1_Q15.1.1	N/A	<p>CA & TP: Due Diligence and Monitoring of General CA & TP Objections</p> <p>With regard to the outcomes from continuing due diligence, the Applicant is requested to complete the attached Objections Schedule with information about any objections to the CA and/ or TP proposals, and at each successive deadline to make any new entries, or delete any entries that it considers no longer apply, taking account of the positions expressed in relevant representations (RRs) and written representations (WRs) and giving reasons for any additions or deletions. (See Annex A to ExQ1 below). The Objections Schedule should be titled ExQ1.15.1.1: Schedule of CA and TP Objections: LTC. The Schedule should be provided with a version number that rolls forward with each deadline. A revised schedule need not be provided at a deadline unless the Applicant becomes aware that data and assumptions on which the previous deadline schedule submission was made have changed. However, where a revised schedule is not provided, a confirming note of 'no changes' should be submitted at the deadline.</p> <p>Response:</p> <p>The Applicant has produced ExQ1.15.1.1: Schedule of CA and TP Objections: LTC [Document Reference 9.77] to respond to this question.</p>
ExQ1_Q15.1.2	N/A	<p>Crown Land and Consent Monitoring</p> <p>With regard to the outcomes from continuing due diligence, the Applicant is requested to provide and at each successive deadline to maintain and submit a tabulated schedule separately identifying any Crown interests subject to PA2008 s135 (with reference to the latest available Books of Reference (BoRs) and the Land Plans), to identify whether consent is required with respect to s135(1)(b) and/or s135(2) and what progress has been made to obtain such consent(s). The Schedule should be titled ExQ1.15.1.2: Crown Land and Consent: LTC. Written evidence of consent(s) obtained must be provided at the first available deadline and in any case by Deadline 8. If at any given deadline an empty schedule is provided, a revised schedule need not be provided at any subsequent deadline unless the Applicant becomes aware that the data and assumptions on which the empty table was provided have changed. However, where a revised schedule is not provided, a confirming note of 'no changes' should be submitted at the deadline.</p>

PINS ID	External Stakeholder (where applicable)	Question / Response
		<p>Response: The Applicant has produced ExQ1.15.1.2: Crown Land and Consent: LTC [Document Reference 9.78] to respond to this question.</p>
ExQ1_Q15.1.3	N/A	<p>Statutory Undertakers: Land or Rights: Monitoring The Applicant is requested to review RRs and WRs made as the examination progresses alongside its land and rights information systems and to prepare and at each successive deadline update as required a tabulated Schedule identifying and responding to any representations made by statutory undertakers with land or rights to which PA2008 s 127 applies. In relation to any such representations, the applicant is requested to identify: a) the name of the statutory undertaker; b) the nature of the undertaking; c) the land and/ or rights affected (identified with reference to the most recent version of the Book of Reference (BoR) and Land Plan available at that time) (the 'relevant land' and/or the 'relevant rights'); d) in relation to the relevant land, whether and if so how the tests in PA2008 s127(3)(a) or (b) can be met; e) in relation to the relevant rights, whether and if so how the tests in s127(6)(a) or (b) can be met; and f) in relation to these matters, whether any protective provisions and /or commercial agreements are anticipated, and if so: i. whether these are already available to the ExA in draft or final form, ii. whether a new document describing them is attached to the response to this question or iii. whether further work is required before they can be documented; and g) in relation to a statutory undertaker named in an earlier version of the table but in respect of which a settlement has been reached: i. whether the settlement has resulted in that statutory undertaker's representation(s) being withdrawn in whole or part; and ii. identifying any documents providing evidence of agreement and withdrawal. The tabulated Schedule should be titled ExQ1. 15.1.3: PA2008 s127 Statutory Undertakers' Land/ Rights: LTC. Written evidence of the withdrawal(s) of any objections that are relied upon must be provided at the first available deadline and in any case by Deadline 8. If at any given deadline an empty schedule is provided, a revised schedule need not be provided at any subsequent deadline unless the Applicant becomes aware that the data and assumptions on which the empty table was provided have changed. However, where a revised schedule is not provided, a confirming note of 'no changes' should be submitted at the deadline.</p> <p>Response: The Applicant has produced ExQ1.15.1.3: PA2008 s127 Statutory Undertakers' Land/ Rights: LTC [Document Reference 9.79] to respond to this question.</p>

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ExQ1_Q15.1.4	N/A	<p>Statutory Undertakers: Extinguishment of Rights and Removal of Apparatus etc.: Monitoring</p> <p>The Applicant is requested to review RRs and WRs made as the examination progresses alongside its land and rights information systems and to prepare and at each successive deadline update as required a tabulated Schedule identifying and responding to any representations made by statutory undertakers with apparatus and rights to which PA2008 s 138 applies. In relation to any such representations, the applicant is requested to identify: a) the name of the statutory undertaker; b) the nature of the undertaking; c) the relevant rights to be extinguished; and/or d) the relevant apparatus to be removed or altered e) how the test in s138(4) can be met; and f) in relation to these matters, whether any protective provisions and /or commercial agreements are anticipated, and if so: i. whether these are already available to the ExA in draft or final form, ii. whether a new document describing them is attached to the response to this question or iii. whether further work is required before they can be documented; and g) in relation to a statutory undertaker named in an earlier version of the table but in respect of which a settlement has been reached: i. whether the settlement has resulted in that statutory undertaker's representation(s) being withdrawn in whole or part; and ii. identifying any documents providing evidence of agreement and withdrawal. The tabulated Schedule should be titled ExQ1. 15.1.4: PA2008 s138 Statutory Undertakers' Rights and Apparatus: LTC. Written evidence of the withdrawal(s) of any objections that are relied upon must be provided at the first available deadline and in any case by Deadline 8. If at any given deadline an empty schedule is provided, a revised schedule need not be provided at any subsequent deadline unless the Applicant becomes aware that the data and assumptions on which the empty table was provided have changed. However, where a revised schedule is not provided, a confirming note of 'no changes' should be submitted at the deadline.</p> <p>Response:</p> <p>The Applicant has produced ExQ1.15.1.4: PA2008 s138 Statutory Undertakers' Rights and Apparatus: LTC [Document Reference 9.80] to respond to this question.</p>

4 Responses to the Examining Authority's ExQ1 16

PINS ID	External Stakeholder (where applicable)	Question / Response
ExQ1_Q16.1.1	N/A	<p>Draft National Policy Statement National Networks (dNPSNN) March 2023</p> <p>As the proposed scheme was accepted for examination before the designation of the dNPSNN, the 2015 NPSNN will remain in force in its entirety and will have affect as per paragraph 1.16 of the dNPSNN. However, the dNPSNN is potentially capable of being an important and relevant consideration in the decision making process. The Applicant is requested to produce for the ExA a dNPSNN Table as an addendum to document “7.2 Planning Statement - Appendix A - National Policy Statement for National Networks (NPSNN) Accordance Table” [APP-496]. The ExA notes that this information has been provided for the A12 Chelmsford to A120 widening scheme, therefore there is precedent for the request.</p> <p>Response:</p> <p>A Policy Accordance Assessment of the Project Against the Consultation Draft National Policy Statement for National Networks (draft NPSNN) [Document Reference 9.98], reflecting the format of Planning Statement Appendix A: National Policy Statement for National Networks (NPSNN) Accordance Table [APP-496], is submitted alongside this response at this deadline (Deadline 4).</p> <p>The document presents an assessment of the Project against the consultation draft policies in the emerging draft NPSNN¹ published for consultation in March 2023. The transitional provisions set out in paragraphs 1.16 and 1.17 of the draft NPSNN make it clear that the Project will be determined against the designated 2014 version of the NPSNN, albeit that the 2023 draft is capable, at the Secretary of State’s discretion, of being important and relevant under the provisions of section 104(2)(d) of the Planning Act 2008.</p> <p>The draft NPSNN has been out for consultation and is subject to amendment as a result of that, which has a bearing upon the weight that the Applicant considers should be attached in the decision-making process to the current draft – nevertheless the Applicant considers the table demonstrates that the Project accords with the provisions and requirements of the draft NPSNN.</p>

¹ Department for Transport (2023). Draft National Policy Statement for National Networks.

PINS ID	External Stakeholder (where applicable)	Question / Response
ExQ1_Q16.1.2	N/A	<p>Detailed Design</p> <p>Can the Applicant provide clarity on:</p> <ul style="list-style-type: none"> • The design development process going forward and which parties will be consulted; • If it would be reasonable to set out the design development process and for it to be secured in the dDCO; • If the Proposed Development has been through independent design review; and • The scope and purpose of the detailed design stage and the engagement expected with parties during detailed design stage? <p>Response:</p> <p><i>‘The design development process going forward and which parties will be consulted’ and ‘The scope and purpose of the detailed design stage and the engagement expected with parties during detailed design’.</i></p> <p>The scope and purpose of the detailed design process is to refine the preliminary design (as presented in the Engineering Drawings and Sections [REP3-051, REP3-053, APP-032, APP-033, REP3-055, REP1-035, APP-036 and APP-037] and the General Arrangement Plans [REP3-027 to REP3-031]), and provide more definition of its component parts (such as specific materials, planting species, interfaces and details). Then, to coordinate these to achieve a high-quality design that complies with technical requirements, the parameters and constraints of the Development Consent Order (DCO) and responds to relevant stakeholder engagement. What constitutes ‘high quality’ for this Project is defined through the collective Design Principles [REP3-110] and is summarised in Section 3.1: Vision of the Design Principles. The Design Principles were themselves developed through stakeholder engagement and in response to comments received through community consultation.</p> <p>The Applicant will ensure that relevant stakeholders are consulted in the detailed design stage. With a scheme as large and complex as the Project, it is important to note that the level of engagement with stakeholders at detailed design will vary by the type of design element, its geographical location and the remit of the relevant stakeholder.</p> <p>Under Requirement 3 of the draft DCO [REP3-077], the detailed design of the authorised development must be carried out in accordance with the Design Principles document [REP3-110] and the preliminary scheme design shown on the Engineering Drawings and Sections [REP3-051,</p>

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		<p>REP3-053, APP-032, APP-033, REP3-055, REP1-035, APP-036 and APP-037], and the General Arrangement Plans [REP3-027 to REP3-031], unless otherwise agreed in writing by the Secretary of State. The Design Principles [REP3-110], in turn, require engagement on the detailed design with the following parties:</p> <ul style="list-style-type: none"> • Clause PRO.01 – the Project has committed to utilising the National Highways Design Review Panel. Further details on this are provided in response to ExQ1_11.5.4. • Clause PRO.06 – the emergency services will be consulted on the proposed suicide prevention measures as part of the detailed design process. • Clause S1.08 – the design of the new woodland east of Shorne Woods shall be developed through collaboration and engagement with Shorne Woods Country Park, Natural England, Kent Downs Area of Outstanding Natural Beauty and relevant local stakeholders. • Clause S3.20 / Clause S9.21 – the detailed design and layout of Rendezvous Points will be subject to consultation with the emergency services. • Clause S3.21 / Clause S9.23 – the detailed design and layout of the helicopter landing area will be developed in consultation with the emergency services. • Clause S3.22 / Clause S9.24 – the detailed design and layout of emergency muster points will be developed in consultation with the emergency services. • Clause S6.01 – this secures consultation with the emergency services on Fixed Fire-Fighting Systems and cross-passage widths. • Clause S9.02 – the landscape at the Tilbury Fields will be designed in consultation with Natural England so that public access to the informal footpaths and viewing points would be appropriately screened to prevent significant visual intrusion to waterbirds using the Thames Estuary. • Clause S11.12 – the layout and design of the replacement travellers’ site must be designed in consultation with Thurrock Council and the travellers occupying the existing site (this is also secured under Requirement 13). • Clause 12.05 – in relation to Work No. 8B, where the Project crosses the statutory main rivers Mardyke, Orsett Fen Sewer and Golden Bridge Sewer, to protect river banks and facilitate access by the Environment Agency to these watercourses to undertake maintenance activities,

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		<p>a bankside access track shall be incorporated into the design of the crossings, the width of which would be subject to consultation with the Environment Agency.</p> <p>Outside of the Design Principles, there are a range of other commitments within the DCO that may influence the detailed design process and engagement, such as those contained in the Register of Environmental Actions and Commitments (within Environmental Statement Appendix 2.2: Code of Construction Practice [REP3-104]), the Stakeholder Actions and Commitments Register [REP1-176] and the outline Traffic Management Plan for Construction [REP3-120].</p> <p>With respect to the utility networks, the detailed design will then be further influenced by those provisions contained within article 6 (Limits of deviation) of the draft DCO [REP3-077], as well as, where relevant, article 59, Schedule 14 Protective Provisions, namely Part 1 (For the protection of electricity, gas, water and sewerage undertakers), Part 5 (For the protection of specified gas undertakers), Part 6 (For the protection of National Grid Gas PLC as gas undertaker) and Part 7 (For the protection of National Grid Electricity Transmission PLC as electricity undertaker), where consultation will be undertaken and agreements sought during the development of the detailed design to ensure that the Project design accords with those protective measures required by those parties, as to not give rise to a detrimental impact to their benefits, rights and interests. Furthermore, the presence of utility networks will influence the Landscape and Ecology Management Plan, as communicated in paragraph 2.1.12 of the outline Landscape and Ecology Management Plan [REP3-106], to ensure those proposals can be delivered safely, and that the Project and those utility networks can operate safely whilst they are operational.</p> <p>If agreement is needed from the Secretary of State under Requirement 3, there is a process for approval that requires consultation with a number of parties prior to seeking approval from the Secretary of State as set out in Part 2 of Schedule 2 of the draft DCO [REP3-077].</p> <p>There are, in addition, other provisions of the draft DCO [REP3-077] which secure further engagement and consultation on the detailed design. Article 40, which relates to special category land, requires consultation of the scheme relating to the provision of replacement land with the relevant planning authority. Requirement 5, which relates to the Landscape and Ecology Management Plan, requires consultation with a range of bodies (as set out in Table 2.1 of the outline Landscape and Ecology Management Plan [REP3-106]). That plan is the implementation of the detailed landscaping and ecological compensation and mitigation features. This ensures consultation on the implementation of these elements of design.</p>

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		<p>There are further requirements in the draft DCO [REP3-077] that require engagement with other bodies in relation to detailed design:</p> <ul style="list-style-type: none"> • The Applicant has committed to utilising local road permit schemes subject to the modifications which are typically applied to the equivalent New Roads and Street Works Act 1991 (see article 9 of the draft DCO). This permit scheme will require engagement on the construction and implementation of the detailed design for local road works. • Article 10 of the draft DCO states that ‘<i>any highway (other than a trunk road or a special road) to be constructed under this Order must be completed to the reasonable satisfaction of the relevant local highway authority in whose area the highway lies</i>’. The Applicant has also inserted protective provisions which secure further design input from local highway authorities. <p>In addition, Protective Provisions secure appropriate consultation and engagement in relation to the detailed design. For example, the Port of London Authority’s Protective Provisions require consultation and approval in respect of ‘specified works’ and ‘specified functions’ under paragraph 98 of Schedule 14, Part 8 of the draft DCO [REP3-077]. Paragraph 99 further secures engagement in relation to the ‘design requirement’ (i.e. the depth of the tunnels). A similar clause has been introduced for the benefit of the Port of Tilbury London Limited in the draft DCO submitted at Deadline 3 [REP3-077].</p> <p>‘If it would be reasonable to set out the design development process and for it to be secured in the dDCO’</p> <p>As set out above, the Applicant has secured engagement in the design development process under the draft DCO.</p> <p>‘If the Proposed Development has been through independent design review’</p> <p>The Preliminary Design has been through multiple rounds of Independent Design Review with the National Highways Design Review Panel, as outlined in Section 3.4 of the Project Design Report Part B: Policy Context and Project Design Process [APP-507]. The National Highways Design Review Panel is administered by the Design Council, comprised of independent design experts, and run in accordance with the established Principles and Practice of Design Review². How the Project has responded to comments arising from these reviews is included in the Project Design Report Part G: Design Evolution [APP-514].</p>

² Design Council (2019). Design Review: Principles and Practice.

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		<p><i>'The scope and purpose of the detailed design stage and the engagement expected with parties during detailed design'</i> Please refer to the response above.</p>
ExQ1_Q16.1.3	N/A	<p>Construction Phases and Timeline Can the Applicant clarify whether the construction phasing order, as identified in Plates 4.4 - 4.7 of Document 7.10 – Health and Equalities Impact Assessment [APP-539], would change as a result of the announced two year delay to Project commencement? In addition and notwithstanding that the ExA has yet to provide a decision on the First Change Request application (specifically in relation to whether 1 tunnel boring machine is used or two), can the Applicant clarify if the use of one tunnel boring machine would have implications for the phasing order identified in Plates 4.4 - 4.7, and if so, what implications?</p> <p>Response: The indicative sequence and timings as identified on Plates 4.4 to 4.7 in the Health and Equalities Impact Assessment [REP3-118] would be maintained as indicated. However, the proposed start of the works would be amended to reflect the Written Ministerial Statement (WMS). The impacts of the WMS on the overall Project have previously been advised in the Applicant Response to Procedural Decisions of 21 March 2023 [AS-086]. In addition, information on the re-phasing of construction in response to the WMS and the appraisal of effects is provided in Environmental Statement Addendum, Appendix D: Appraisal of effects from the two-year re-phasing of construction [REP3-124].</p> <p>The Applicant has set out the impacts and changes associated with a single Tunnel Boring Machine (TBM) option in the Environmental Statement Addendum, Appendix C: Review of a single TBM tunnelling methodology [REP3-124]. This will involve a slight change to some of the durations indicated in Plate 4.5 of the Health and Equalities Impact Assessment [REP3-118]. The overall construction programme set out in the DCO application would remain the same, whether the tunnels are constructed with one or two TBMs.</p>
ExQ1_Q16.1.4	N/A	<p>Mitigation Route Map It would be useful for the ExA and Stakeholders if the Applicant could provide a single document containing a mitigation routemap of the controls and mitigation measures that have been identified across a number of documents, which the Environmental Statement and related documents rely on to avoid, reduce and/or offset significant impacts of the development. The routemap should set</p>

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		<p>out the way in which the mitigation measures have been, or will be, translated into clear and enforceable controls; either via DCO Requirements, protective provisions, conditions attached to deemed licences, Section 106 obligations, other consent regimes [such as Section 61 Consents (Control of Pollution Act 1974), or Environmental Permits (Environmental Permitting Regulations 2010)] or side agreements between the Applicant and a third party.</p> <p>Response: The Applicant has produced a Mitigation Route Map [Document Reference 9.90] to respond to this question.</p>

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