



Rynd Smith
Lead Member of the Examining Authority
National Infrastructure Planning
The Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

BY ONLINE SUBMISSION ONLY

Growth, Environment & Transport

Sessions House
Maidstone
Kent
ME14 1XQ

Your Reference:
TR010032

KCC Interested Party
Reference Number:
20035779

Date: 19th September
2023

Dear Rynd,

RE: Application by National Highways for an Order Granting Development Consent for the Lower Thames Crossing - Kent County Council's Submission to Deadline 4

As outlined within the Examination Timetable (Annex A of the Rule 8 letter (PD-020), this letter is Kent County Council's Deadline 4 submission which provides the following:

- Responses to ExQ1

KCC's responses to the Examining Authority's first round of written questions and requests for information [PD-029] are provided within the attached document.

Yours sincerely,

Simon Jones

Corporate Director – Growth, Environment & Transport

Appendix A: Kent County Council Responses to ExQ1 [PD-020]



| ExQ1 | Question to: | Question: | Response: |
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| 4 | Traffic and Transportation | | |
| 4.1 | Modelling | | |
| Q4.1.14 | All | <p>Modelled Traffic Effects: Lower Thames Area Model: TAG Compliance Does any party disagree with the Applicant's conclusion that the LTAM is TAG compliant? If so, please explain why.</p> | <p>KCC has not undertaken a full and independent model review and cannot comment on LTAM's TAG compliance. We note however that the model has a pre-COVID base year. We would therefore expect National Highways to test the impacts of LTC on the Strategic Road Network (SRN), Major Road Network (MRN) and local roads as applicable, taking into account post-COVID trends and trip patterns by drawing on DfT guidance in relation to models with a pre-COVID base year.</p> |
| 4.2 | Mitigation | | |
| Q4.2.7 | Local Authorities | <p>Wider Network Monitoring Approach It has been suggested that the Applicant's approach to monitoring wider impacts contained in the WNIMMP is not compliant with the NPSNN. However, it appears established practice for made DCO's to include provision for wider network monitoring along similar lines as proposed here. Accordingly, please explain why such an approach would be unacceptable in this instance?</p> | <p>The National Networks (Road and Rail) National Policy Statement (NNNPS) does not just look at monitoring, but also speaks extensively about 'mitigation'.</p> <p>Section 4 (Assessment Principles) deals with 'good design' in paragraph 4.31 and states: "<i>A good design should meet the principal objectives of the scheme by eliminating or substantially mitigating the identified problems by improving operational conditions and simultaneously minimising adverse impacts</i>".</p> <p>Section 5 (generic impacts) deals with how various impacts should be considered and specifically includes a section on 'impacts on transport networks'. There is no suggestion, therefore, that these are not impacts to be considered.</p> <p>Paragraph 5.206 states that: "<i>For road and rail developments, if a development is subject to EIA and is likely to have significant environmental impacts arising from impacts on transport networks, the applicant's environmental statement should describe those impacts and mitigating commitments</i>".</p> <p>The LTC Environmental Statement (ES) does have a section on transport impacts and KCC would say that those include traffic-related impacts on the wider network. After all, that is why National Highways and KCC have been doing modelling for wider network impacts (WNI).</p> <p>Paragraph 5.213 says, in terms, that: "<i>The Examining Authority and the Secretary of State should give due consideration to impacts on local transport networks and policies set out in local plans, for example, policies on demand management being undertaken at the local level</i>".</p> <p>Paragraph 5.215 and 5.217 say: "<i>Mitigation measures for schemes should be proportionate and reasonable, focussed on promoting sustainable development</i>". and "<i>Mitigation measures may relate to the design, lay-out or operation of the scheme</i>".</p> <p>None of these paragraphs (or any others) suggest that National Highways is 'exempt' from these provisions or that monitoring alone is sufficient; they all refer to 'mitigation' of effects on other transport networks.</p> |

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| | | | <p>These various themes are reinforced in the draft revised NNNPS which also indicates explicitly that 'funding' be provided for such mitigation (see, for example, paragraph 5.280).</p> <p>The fact that 'mitigation' has not been required in other schemes may simply reflect the circumstances in those other cases, or that funding / support have been secured through side-agreements. This is why Silvertown Tunnel is helpful, as it illustrates that the Secretary of State is prepared to impose 'mitigation' requirements where appropriate.</p> <p>KCC has identified impacts through the WNI Study and, in the case of the A229 Blue Bell Hill, has a clear costed solution. Costed solutions for the other WNI locations are also being worked up and this work will be completed before the end of the Examination.</p> |
| 4.6 | Construction Traffic | | |
| Q4.6.4 | Highway Authorities | <p>Realistic Extent of Construction Phase Mitigation Notwithstanding the provisions of various control documents such as the Traffic Management Plan (TMP), is it accepted that it would be impossible to prevent or mitigate all adverse effects on local communities during the construction phase? If that is not accepted, please provide details of what further measures could be incorporated into the oTMPfC at this stage.</p> | <p>KCC accepts that it would be impossible to prevent or mitigate all adverse effects on local communities during the construction phase, but there are numerous impacts that can be forecast or anticipated; and their effects mitigated, as outlined in our Local Impact Report (REP1-241) and Written Representation (REP1-243) text concerning Transport Impacts E (public transport), H (construction shifts & deliveries), I (construction traffic routing) and J (construction impacts on road condition).</p> |
| 8 | Waste and materials | | |
| 8.1 | Waste and materials: General | | |
| Q8.1.4 | LPAs | <p>Waste Management Can the Local Authorities set out whether you consider: - The measures in the dDCO, specifically the commitments in the Register of Environmental Actions and Commitments (REAC) (e.g. Commitment MW007) to adhere to the waste hierarchy, are adequate in terms of waste management? - If not, please identify what alterations or additions you would consider to be necessary?</p> | <p>KCC considers the measures for waste management within the dDCO and REAC adhere to the waste hierarchy and are adequate in terms of waste management.</p> |
| Q8.1.6 | LPAs and Environment Agency | <p>Waste Management Beyond the matters secured by the dDCO as currently drafted, and the consenting/ environmental permitting requirements that will apply, are there other matters in terms of waste management that you consider need to be clarified/secured?</p> | <p>None.</p> |
| Q8.1.7 | Applicant and LPAs | <p>Materials Handling Please could the Parties provide comments on what, if any, further use of wharves close to the Order Limits for the delivery of materials, particularly aggregates, could be utilised? If so, how should the Outline Materials Handling Plan be updated?</p> | <p>Wharves that have planning permission can be used for mineral importation and are well known in terms of their locations. If any operations are required that are outside the planning permission operational parameters, the wharf operator should be informed so that they can approach the County Council in order to seek the necessary additional planning approval(s).</p> |

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| Q8.1.9 | LPA's and Environment Agency | <p>Monitoring Consultation/Approval/Timescales</p> <p>Section 11.8 of ES Chapter 11 - Noise and Vibration deals with monitoring. Can you provide your views on:</p> <ul style="list-style-type: none"> - The Applicant's strategy for waste and material management during construction? - The Applicant's strategy for waste and material management during the operational phase? - The Applicant's suggested approach to consultation and approval of these matters through the dDCO, as currently drafted, and the associated REAC within the CoCP? | <ul style="list-style-type: none"> - The Applicant's strategy for waste and material management during construction? No additional comments. - The Applicant's strategy for waste and material management during the operational phase? No additional comments. - The Applicant's suggested approach to consultation and approval of these matters through the dDCO, as currently drafted, and the associated REAC within the CoCP? No additional comments. |
| 10 | Road drainage, water environment and flooding | | |
| 10.1 | Consultation | | |
| Q10.1.1 | Applicant Lead Local Flood Authorities Internal Drainage Boards (IDB) | <p>Consultation</p> <p>Appendix 14.2 - Water Features Survey Factual Report (1 of 2) paragraph 1.1.1 suggests that the extent of surveys were agreed with the Environment Agency. Were other statutory bodies consulted and if not, why not? (1) What difference would be made to the survey limits if other Flood Risk Management Authorities were consulted? (2) And consequently, what difference if any would be made to proposed development? (3)</p> | <p>(1) KCC has no record of being consulted with regards to the extent of the surveys.</p> <p>(2) and (3) Having checked the agreed extent of the requirements of the survey with the Environment Agency (EA) (within 500m radius of the order limits), KCC would agree this seems suitable and so no difference would be made to the survey limits from our perspective and consequently no difference would be made to the proposed development.</p> |
| 10.4 | Managing Water Supply | | |

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| Q10.4.5 | Applicant Environment Agency Lead Local Flood Authorities | <p>Site Information</p> <p>(1) In document 6.3 Appendix 14.5 - Hydrogeological Risk Assessment (paragraph 3.6.16), it suggests that watercourse flow could be seasonal. Descriptions are not clear as to the results of the investigation.</p> <ul style="list-style-type: none"> - Is this flow into ground observed or assumed? - Could it have gone anywhere else? - Could it be weather dependent and/or reactive to ground water levels? <p>(2) Additionally, within the submitted plan, 6.2 Environmental Statement - Figure 14.1 - Surface Water Receptors and Resources, there are a number of 'ordinary watercourses' delineated which are isolated and connect to nothing.</p> <ul style="list-style-type: none"> - Where do these watercourses discharge? - What effect could interference with these watercourses have on the ground water and biodiversity of the area? - What measures are being proposed to protect these watercourses and have these measures accommodated within the submission or what amendments will be required? <p>(3) In Appendix 14.2 - Water Features Survey Factual Report (2 of 2), it suggests in Figure 2 that the southern Ditch has "...Heavy vegetation etc...and discharge route could not be determined".</p> <p>Experience suggests that ditches are not normally maintained from April to July or longer, dependent on a number of options. Is the provision of regular maintenance on these ordinary watercourses etc in this location considered to be particularly important? It was suggested that there was no ditch in the location. Was there culverts or other discharge arrangements?</p> <p>For areas where maintenance operations are not clear from the Water Features Survey, what is being proposed, particularly in areas that are proposed for biodiversity or Nitrogen deficiency mitigation?</p> <p>Who is expected to undertake such maintenance works both during the construction phase and during the operational phase?</p> <p>How has this lack of understanding been accommodated in the analysis undertaken for the submission particularly in relation to the influence on biodiversity and/or flood risk? What effect would this have on the submission if not previously considered?</p> | <p>(1) This relates to a watercourse north of the River Thames and so KCC defers to the relevant Lead Local Flood Authority to respond on this question.</p> <p>(2) Whilst the majority of the watercourses indicated appear to be north of the River Thames those that are shown within Kent's boundary will ultimately outfall to the River Thames via the Shorne and Higham marshes. Interference to these watercourses could have detrimental effects to groundwater matters; however, given that it is proposed to discharge at greenfield turn off rates, the effect should be neutral. However, all of those watercourses indicated within Kent sit within the jurisdiction of the North Kent Marshes Internal Drainage Board and so they would be best suited to address those concerns related to possible hydrogeological alterations to the watercourses, as well as to the Environment Agency, given their duty to protect and manage groundwater resources, with regards to possible effects on groundwater.</p> <p>(3) This ditch is situated north of the River Thames and so KCC defers to relevant authorities north of the River to respond on this question.</p> |
| 10.6 | Water Quality and Discharges | | |

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| Q10.6.5 | Environment Agency LLFAs Natural England Wildlife Trusts Applicant | <p>Mammal Ledges</p> <p>The Applicant proposes to introduce mammal ledges in culverts on watercourses that suggest that watercourses may be used for commuting or foraging mammals.</p> <ul style="list-style-type: none"> - Is it expected that the culvert should be designed to the full storm design parameters (including appropriate climate change additions) with the ledge remaining "dry"? - If not to what design storm should the culvert design reach? - What reduction in capacity is appropriate if the mammal ledge is submerged? - What changes to the submitted documents are required if the proposals do not assume the culverts are sized to meet the full design storm with the ledges remaining "dry"? - What is the maximum length that it is considered that mammals will use such ledges? - What is the effect on the proposals if there are culverts longer than the longest appropriate length of culvert, or do not meet the suggested capacity for "dry" ledges, including what additional mitigation works are to be required? - Do the Environmental Consultees have an opinion? | KCC understands that north of the river the Applicant is proposing to create quite long culverts which will be used by water vole. We suggest that if an approach for the impact on water voles is agreed with the relevant parties north of the Thames, it will also be appropriate in Kent as the impact is significantly less. We therefore defer to the relevant authorities north of the river to respond on this question, although we also point out that North Kent Marshes Internal Drainage Board may wish to input given the number of watercourses within their jurisdiction, although it is unlikely any of these require culverting. |
| 12 | Physical effects of development and operation | | |
| 12.1 | Historic Environment & Archaeology | | |
| Q12.1.10 | Applicant Local Authorities Historic England | <p>Waterlogged Organic Deposits</p> <p>A strategy has been included in the oWSI to address any unexpected finds (Sections 7.1.14 and 7.3.127). Section 7.1.14 adds that if the relevant local authority finds further investigation is needed that no construction would take place within 10m of the remains until further investigation can take place. However, if waterlogged remains are discovered, a greater stand-off may be more appropriate to ensure that the area is not accidentally dewatered before the mitigation strategy is implemented.</p> <p>Does the Applicant agree to amending the oWSI to allow the relevant local authority to set a greater stand-off distance for unexpected waterlogged finds?</p> <p>Local Authorities and Historic England shall confirm what would be sufficient to address this issue.</p> | The present text of the oWSI Section 7.1.14 provides for a reasonable initial response by stakeholders, including the local authority archaeological advisers. We agree that Section 7.1.14 of the oWSI needs text added to recognise that where waterlogged archaeological remains are discovered, a stand-off distance greater than 10m may be required, and this, and the scope of investigation and recording, will be agreed with the relevant planning authority archaeologist. |
| 12.2 | Landscape Impact including riverscapes and visual severance | | |
| Q12.2.5 | Local Authorities Kent Downs AONB Unit Natural England | <p>Mitigation Planting and Photomontages</p> <p>It is noted that Register of Environmental Actions and Commitments No. LV003 (contained in ES Appendix 2.2 - Code of Construction Practice, First Iteration of Environmental Management Plan) states that "the first five years of vegetation establishment would be overseen by an Environmental Clerk of Works" and that "failed vegetation in this period would be replaced."</p> <p>Can the Local Authorities, Kent Downs AONB Unit and Natural England advise whether this period of time is sufficient when landscape mitigation is so heavily relied upon to minimise adverse landscape and visual effects and air quality effects of the project?</p> | As mitigation planting may have an archaeological impact, KCC Heritage Conservation would like to be kept informed of proposals and any changes, so that we have the opportunity to advise on the need for mitigation by design changes and/or through archaeological investigation and recording. |
| 12.3 | Visual Impacts | | |

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| Q12.3.1 | Local Authorities Historic England Kent Downs AONB Unit | <p>Representative Viewpoints and Photomontages Can the Local Authorities, Historic England and the Kent Downs AONB Unit confirm they are in agreement with the LVIA methodology including the locations of visual receptor viewpoints and photomontages? Can they also confirm if any other viewpoints have been requested from the Applicant during rounds of stakeholder consultation which have not yet been provided?</p> | <p>KCC Heritage Conservation asked for a viewpoint from the tower of St Mary Magdalene, Cobham to be included, following a meeting on 3.12.2019. We have looked at a number of DCO documents submitted by the applicant including DCO documents REP1-122/5 and REP1-128/9. We cannot see a viewpoint or photomontage from Cobham Church. We are therefore uncertain whether or not all our views have been taken on board in the adopted methodologies nor whether the specific view from the tower of St Mary Magdalene, Cobham has been included. We would also expect to see an additional viewpoint on Lower Higham Road to demonstrate the impact in relation to Chalk church as agreed at the meeting between LTC, Historic England, KCC and GBC on 08.05.19 and seek confirmation that this has been included.</p> |
| 13 Social, economic and land-use considerations | | | |
| Q13.1.1 | Local Authorities | <p>Community Severance - Public Rights of Way Paragraph 13.3.25 of ES Chapter 13 - Population and Human Health states that baseline conditions for Public Rights of Ways were identified from definitive mapping on LPA websites. Definitive maps may only show made rights of way and village greens and not any application under consideration. Can the Local Authorities advise whether there are any live applications being considered by their Public Rights of Way departments for amendments to or establishment of new rights of way or village greens that may be affected by the Project?</p> | <p>The Definitive Map and Statement (DMS) provides conclusive evidence as to its contents (Wildlife and Countryside Act 1981 s56). The basic premise of the question is correct in that the DMS is conclusive only as to those rights shown. Other rights may exist but not be recorded, e.g., equestrian rights may have been established over a footpath. The County Council's register of applications to amend the DMS may be viewed here:</p> <p>https://www.kent.gov.uk/__data/assets/pdf_file/0014/5135/Definitive-map-modification-order-register-of-applications.pdf</p> <p>There are no accepted, or pending applications that may be affected by the Project as of Wednesday 13th September 2023. The DMS is however subject to ongoing review and it may be that applications will be submitted prompted by the proposed development.</p> <p>The applications register for Village Greens may be viewed here:</p> <p>https://www.kent.gov.uk/environment-waste-and-planning/public-rights-of-way/village-greens/register-a-village-green</p> <p>There are no submitted / outstanding village green applications that would be affected by the project.</p> |