

Lower Thames Crossing

Deadline 4 –Essex County Council
Submission

19 September 2023

Background

The Lower Thames Crossing (LTC) scheme as proposed represents a huge step change for how vehicles can cross the Thames, giving an alternative to the current Dartford Crossing and providing a direct link between Junction 29 on the M25 and the M2 in Kent with two lanes being proposed southbound and three northbound. The connection will be made by tunnel under the river close to the village on East Tilbury in Thurrock, a Unitary Council.

Some of the route will be formed in Essex where the M25 intersects with the A127 at Junction 29, and the impacts this proposal will have on the free flow of vehicles and trade across the River is hugely significant and considered, for the most part, to be beneficial, and is supported in principle by Essex County Council (ECC).

ECC is a host authority and statutory consultee for this Nationally Significant Infrastructure Project (NSIP) proposal.

Since the DCO scheme was first put forward for the Lower Thames Crossing (LTC) NSIP ECC has actively engaged with National Highways (NH) on the scheme. This has included commenting for example on the evolving scheme design, responding to the EA scoping exercise and making submissions to the various statutory and non-statutory consultations which have taken place.

ECC is one of the largest local authorities in England and has significant interests in the project. Our functions as County Council include that of the local highway and transport authority, the lead local flood authority, the local education authority and the planning authority for applications relating to minerals and waste within our administrative boundary.

In our role as local Highway Authority, ECC are responsible for over 5,000 miles of roads, 4,000 miles of public rights of way, over 1,500 bridges and other highway structures and over 130,000 streetlights. We recognise the vital role that the highways network plays in the lives of the residents, as well as the travelling public, local business and the movement of goods, services and product within Essex and the wider region. At the same time, we are dedicated to ensuring that everything we do supports the drive towards a Greener Essex, supports the council's strategic priorities documented in Everyone's Essex, and contributes towards achieving the County's target of net zero by 2050.

ECC recognises the benefits of the LTC project to the performance of the Strategic Road Network (SRN) for which NH is responsible, including the improvements in resilience, reliability and road safety for the many people who travel on this stretch of the network, including the current Dartford Crossing.

The council supports the principle of the scheme as is proposed by LTC, and has said so many times in engagement, and is keen to see it delivered to ensure that the expected benefits can be realised. However, such a development should not come forward at unacceptable environmental cost.

The as proposed development would alleviate the long-standing transport problems at the Dartford Crossing, which constrain the economy, the free flow of people, goods and services through Essex.

Current levels of traffic demand for crossing the River Thames east of London outstrips the available supply, with growth and development in the connected communities exasperating the situation and making it progressively worse over time. Due to the age of the existing crossing, and despite incremental improvements have been made to maximise the capacity of the available road, there are little practical options to what can now be delivered in this location to make the Dartford Crossing more efficient. Despite these challenges, road users have little choice but to continue to use the Dartford Crossing because of the lack of alternative routes. LTC, if consented, would provide a practical alternative for people and goods to crossing the Thames in this location east of London and overcome current high levels of congestion at peak times which affects the M25 and linked highways network on both sides of the Thames.

Reduced congestion and delays and improved journey time reliability and cross river connectivity would aid the growth potential for the local economies on both sides of the River Thames, including those in Essex, by helping to form a single market with enhanced labour market, competition and efficiencies to drive up productivity. The benefits would extend across the London region by creating a greater synergy and across the country where the economy relies on road connectivity for international trade via the ports.

The council does consider, however, that although the development should come forward at pace, its impact should not be such that detrimental impacts could result in significant adverse impact on the highway network, nor on the amenity of residents, the environment, business premises and growth in Greater Essex and the wider region.

Whilst many of the issues as they relate to Essex have been discussed with NH and allowed ECC to agree what is a full and comprehensive Statement of Common Ground (SoCG) it is considered that some further information is required on the impacts of the scheme and that fundamentally some material changes to the proposals are required. In many cases we believe these changes should be secured through the Development Consent Order (DCO).

Most of these changes relate to traffic and transport, and more specifically to the impacts on and interface between the local highway network (for which ECC is responsible) and the SRN, to safeguarding land which is allocated for employment growth, and to provide a full and co-ordinated non-motorised user (NMU) network.

More generally, the council's approach to this and other NSIPs is guided by our NSIP Policy which was approved in December 2022 and is available [here](#)¹. Our aim is to ensure that the full impacts of NSIPs across Essex are considered, adverse impacts are minimised and the benefits to Essex are explored and maximised with a lasting legacy provided by NSIP proposals. This includes securing appropriate mitigation where required and impact monitoring.

Additional Protective Provisions

ECC fully supports the London Borough of Havering and their call for Protective Provisions to be applied to this project. In discussion Havering will be commenting on this at Deadline 5 in some detail.

Draft protective provisions were submitted by the London Borough of Havering at Deadline 2 (REP2-087) having previously been sent to National Highways and all other local highway authorities affected by the project including Essex County Council.

ECC shares the London Borough of Havering's objections in principle to matters being dealt with solely in a side agreement on the basis of lack of transparency.

ECC also agrees, and sees no reason why, the matters to be included in the side agreement should not be included in protective provisions. Indeed, the draft side agreement provided to the London Borough of Havering by National Highways (shared with Essex County Council) appears to have used the A303 Sparkford to Ilchester DCO protective provisions as a precedent.

The A303 provisions are evidence that there can be no objection in principle to the inclusion of protective provisions for the benefit of local highway authorities and, given that the side agreement proposed by National Highways deals with same issues as the A303 protective provisions there cannot be an objection to the substance of them.

The distinction regarding statutory undertakers in the National Highways response is not accepted by ECC – there are statutory protections directly built into the Order for statutory undertakers – (see for example Article 18, 19 and 37). In addition, National Highways itself benefits from protective provisions in orders promoted by others notwithstanding the inclusion in those DCO of Articles such as 9 and 10 referred to in the National Highways response (See The East Midlands Gateway Rail Freight Interchange and Highway Order 2016, The Northampton Gateway Rail Freight Interchange Order 2019 and The West Midlands Rail Freight Interchange Order 2020)

In addition, it is the case that side agreements, acknowledged to be needed by National Highways, are not agreed and there are significant outstanding areas of disagreement. It will not be possible for those areas to be adjudicated upon by the Examining Authority if they are contained within a side agreement however it will be possible if those matters are contained in protective provisions which are subject to scrutiny by the Examining Authority.

ECC confirm that they have been involved with discussions have taken place with the other Highway Authorities. We agree with all Highway Authorities to the need for protective provisions.

Orsett Cock Junction

To follow up from the Issue Specific Hearing on Traffic (ISH 4) ECC wishes to formally record its position in relation to this junction. ECC notes the discussions that took place at Issue

Specific Hearings and agrees with the submissions from Thurrock and both Ports that the junction must perform adequately. ECC has no comments on the current modelling because the cordons provided to us by the LTC modelling team do not allow us to adequately investigate that junction, but we note the concerns raised by others. The junction is also not part of the Greater Essex network, Thurrock is the Highway Authority. We agree that this vital junction must perform adequately from day 1 of the Lower Thames Crossing operation and be capable of dealing with revised and increased traffic movements. Until there is consensus around this matter, we remain concerned but as the junction is in a neighbouring authority, we don't have a current view on the best way forward, but we note that a specialist workshop has been requested by the inspectors. ECC will take a view as to how they will deal with this matter and what value it can bring by partaking in the session.

Non-Motorised User (NMU) Facilities

There was discussion in ISH 7, DCO Drafting, around the NMU A127/M25 footbridge at Folkes Lane, ECC support the comments as made by Havering to state that the provision of the same was policy compliant an additional piece of infrastructure that can be a facility over and above requirements. This area of Essex/Havering is one which is open to growth by the Brentwood Enterprise Park and Hole Farm amongst others and encouraging NMU access to the same is wholly supported by ECC. We agree with comments made by the examining authority that it is difficult/impossible to predict with any accuracy numbers of future users, this is common across all NMU schemes but reiterate that this facility is placed in an area of high growth and is at the heart of the Government Green agenda and to encourage the beneficial use of outdoor space, the provision of safe, reliable, sustainable and maintained NMU's contribute to inclusion, accessibility and wellbeing of its users.

ECC support the principle of NMU's to be designed and constructed with LTN/1:20 standard in accordance with comments from other Local Planning Authorities.

M25 (J29) Junction with the A127

We have set out our comments on this junction in our Local Impact Report (REP1-226). Junction important although impact arguably less complex than others on the route, although equally important as connectivity to the surrounding road network necessary at all points to get the best value out of the Lower Thames Crossing. ECC raise no issues with the junction itself, and one comment on the Local Impact Report in terms of the proposed two lanes southbound is not supported by evidence, but experience suggests that motorways are extended rather than reduced in width. Our comments go beyond the statutory road network and include reference to Lower Thames Crossing severing the access to the Brentwood Enterprise Park, again made reference in our Local Impact Report. ECC confirms that discussions are on-going with Lower Thames Crossing and Brentwood Council to seek to remedy this and provide dedicated access to the Brentwood Enterprise Park and the examining authority will be advised of this throughout the Hearing deadlines.

Questions from the Examining Authority

Question number	Question	ECC's response
Q2.3.1	<p>Carbon and Climate Considerations: R (oao) Boswell v Secretary of State for Transport What are the implications of the recent Boswell v Secretary of State for Transport High Court Judgement [2023] EWHC 1710 (Admin) in relation to the treatment of carbon and climate in NSIP decision-making for the A47 Blofield to North Burlingham, A47 North Tuddenham to Easton and A47/A11 Thickthorn Junction applications for the consideration of carbon and climate matters in the LTC Examination and decision?</p>	<p>Case law is a material planning considerations hence should be taken into account when the ExA make their recommendation of this NSIP submission. ECC have no additional detailed comments to add.</p>
Q3.1.1	<p>EIA Regulations 2017: Consideration of Reasonable Alternatives Regulation 11(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) imposes a duty on the Applicant to include ‘a description of the reasonable alternatives studied by the applicant, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the development on the environment’ within the Environment Statement (ES). This obligation needs to be met through consideration of alternatives in terms of ‘design, technology, location, size and scale’ (EIA Regulations Schedule 4). The Applicant has sought to meet this obligation in ES Chapter 3 [APP-141]. The ExA is aware of issues raised in relation to this duty in Deadline 1 and 2 responses. However, it is important that if any remaining IP considers that this duty has not been addressed, that they identify their position and the reasons for it in writing in response to this question.</p>	<p>ECC is of the view that the alternatives have been taken into account.</p>

	Any response must identify the specific element(s) of the duty that in the IP's view has not been addressed.	
Q4.1.14	Modelled Traffic Effects: Lower Thames Area Model: TAG Compliance Does any party disagree with the Applicant's conclusion that the LTAM is TAG complaint? If so, please explain why	
Q4.2.7	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?	
Q4.6.4	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.	This is accepted due to the size of the DCO here proposed impact may be required to be monitored as part of the applicants commitment to community liaison and the reporting of unforeseen incidents
Q8.1.4	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) [REP1-157] (eg Commitment MW007) to adhere to the waste hierarchy, are adequate in terms of waste management? • If not, please	ECC as the minerals and waste Authority for the DCO element within Essex has considered REP1-157. We have also commented on this within our Local Impact Report at REP1-226. It is noted that the appointed principal contractor needs to buy in to this requirement.

	identify what alterations or additions you would consider to be necessary?	
Q8.1.6	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?	No, see above
Q8.1.7	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 [APP-338] be updated?	No comments are raised
Q8.1.9	Monitoring Consultation/ Approval/ Timescales Section 11.8 of ES Chapter 11 – Noise and Vibration [APP-149] deals with monitoring. Can you provide your views on: • 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 [REP2-004], as currently drafted, and the associated REAC within the CoCP [REP1- 157]?	No comments are raised
Q9.2.5	Duration of Effects ES Chapter 12 – Noise and Vibration [APP-150] utilises guidance in respect of the duration of an effect contained within the Design Manual for Roads and Bridges (DMRB), (ie 10 or more days in a consecutive 15 day period, or more than 15 days in a six-month period). • Please indicate how/ why you could be confident that the duration of effects would not be	ECC is not the statutory Authority who would deal with noise, and defers consideration to the Local Authorities along the route.

	<p>greater than those predicted in the ES?</p> <ul style="list-style-type: none"> • Please indicate if any measures would be necessary to monitor any exceedances and, if so, whether any associated reactive mitigation measures would be necessary? 	
Q9.4.5	<p>Mitigation ES Chapter 12 – Noise and Vibration [APP-150] contains tables with a column titled “Justification of significance conclusions”. This includes mitigation secured through the robust implementation of Best Practicable Means (BPM) to reduce noise levels below the Significant Observed Adverse Effect Level (SOAEL) with reference to a XXdB(A) figure. With regard to the mitigation methods proposed, do IPs agree that the figure indicated is achievable, if not please provide reasoning?</p>	See above
Q9.5.3	<p>Monitoring Consultation/ Approval/ Timescales: Section 12.8 of ES Chapter 12 – Noise and Vibration [APP-150] deals with monitoring. Can you provide your views on:</p> <ul style="list-style-type: none"> • At what stage should the details for the nature/ form and locations for monitoring be settled (ie post consent or should a greater degree of detail/ expectations be secured within a DCO)? • The Applicant’s approach to long term monitoring including considering deterioration? • Whether measures beyond those that would be secured under the REAC [REP1-157] (such as Commitment NV015) are necessary (for the preliminary works, construction and operational phases)? 	No comments, see above
Q10.1.1	<p>Consultation Appendix 14.2 – Water Features Survey Factual Report (1 of 2) [APP-454] paragraph 1.1.1 suggests that the extent of surveys were agreed with the Environment Agency. Were other statutory bodies consulted and if</p>	ECC as the LLFA for the area within Essex has been consulted and our comments on the same are within our LiR (REP1-226) and our

	not, why not? What difference would be made to the survey limits if other Flood Risk Management Authorities were consulted? And consequently, what difference if any would be made to proposed development?	Statement of Common Ground (REP1-098)
Q13.1.1	Community Severance - Public Rights of Way Paragraph 13.3.25 of ES Chapter 13 – Population and Human Health [APP-151] 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?	ECC are not aware that there are live applications being considered in Essex at this time.

In addition a number of questions have been raised by the ExA at Issue Specific Hearing 7, and contained in the communication dated 11 September 2023. Answers to the same as far as they relate to ECC are as follows:

Commuted sums. Provide examples from made DCOs where commuted sums have been paid to Local Highway Authorities in respect of the maintenance of new structures.

ECC has recently been involved in the A12 to A120 DCO, for which the Examination is now closed. The maintenance of new structures could place a burden on already stretched Authority budgets and ECC is still in negotiations with National Highways on this.

At our Deadline 7 submission on this DCO we asked that the ExA that: “These amendments improve the drafting and the insertion of new sub-paragraph (f) would give the Council some comfort that some financial liabilities that might otherwise occur can potentially be mitigated. It should be emphasised, however, that these amendments do not meet the Council’s objection, and the Council’s strong preference is for its version of the Requirement to be included at the DCO.”

In addition, we asked here that: “(f) the agreement of the local highway authority that any highway assets to be transferred to it are in a condition that meets its reasonable satisfaction.”

At the ExA question 4 asks: Provide submissions in respect of the wording of Article 10 of the dDCO and to what extent this could/should include the verges/landscaping. Provide clarity on ownership responsibilities between National Highways and the LHA.

ECC note that this question was raised in relation to the as proposed green bridges, none of which are proposed in Essex. We also understand from the Hearing that National Highways will be inserting a new clause in Article 10, clarifying landscaping around green bridges.

Draft Development Consent Order

ECC notes the comments as made at Hearing, in particular the comments as made by Gravesham, Thurrock and Kent, on the difference between the DCO beginning, and commencing, is shared.

As was mentioned at Hearing Essex County Council (ECC) has recently been involved in the Hearing into the A12 to A120 NSIP proposal, submitted by National Highways, and there are certain parallels between the DCO as is proposed here. In the A12 DCO ECC has learned a number of lessons which it considers also relate to the Draft DCO document as here proposed (ExA reference REP3-078), and these are set out below:

(1) Schedule 2, Part 1 Requirements (3) – Detailed Design

a. The current Draft Requirement states that it is “*carried out in accordance with the design principles document and the preliminary scheme design shown on the engineering drawings and sections, and the general arrangement drawings, unless otherwise agreed in writing by the Secretary of State...*” It is ECC’s considered view that should also explicitly include the principles of the Environmental Masterplan to ensure it explicitly says that the Applicant complies with the environment attributes of their preliminary design.

b. Similarly, ECC would encourage the inclusion of a new paragraph (3) stating:

“(3) - No part of the authorised development is to commence until, for that part, a report has been submitted to and, following consultation with the relevant local planning authority, approved by the Secretary of State, demonstrating that—

(a) the undertaker has engaged with relevant stakeholders on refinements to detailed design for that part of the authorised development;

(b) the undertaker has had regard to the relevant stakeholders’ comments; and

(c) any refinements to the detailed design for that part of the authorised development arising as a result of that engagement should accord with the scheme design approach and design principles.”

This is text proposed by the A12 ExA (in PD-015), and which was mentioned by Michael Humphries KC for Kent County Council at the Hearing into the LTC DCO to address concerns about ongoing design refinements. It was suggested by the A12 ExA as it add precision to the Requirement and is necessary to ensure the delivery of good design across the whole of the proposed development.

(2) Schedule 2, Part 2 Procedure for Discharge of Requirements (20) - Details of Consultation

a. This draft clause currently does not require NH to make their application for approval to SoS available to the consultees. Hence I would suggest that an additional paragraph (4) is included.

The Applicants have been stating at length the way in which landscaping will effectively be used to mitigate against the impact of the development. However the draft DCO (REP3-077) for both temporary planting, Schedule 1, Part 36, (13) and permanent Schedule 2 part 1 (5 vii) propose an aftercare period of 10 years. This is considered inadequate particularly given the fact that much of the works close to the NSIP itself are on made/sloping ground, and this period should be increased to 10 years as a minimum.

At 20 and following the points (1) – (3) ECC request an additional clause at 20 (4) to read:

20 - (4) At the time of application to the Secretary of State for approval, the undertaker must provide a copy of the application referred to under sub-paragraph (1) to the relevant consultees referred to in the requirement in relation to which approval is being sought from the Secretary of State.

Action from Issue Specific Hearing 4

Essex County Council had a recorded action from ISH 4. The action recorded is -

Innovative Construction Practice: Please provide suggested wording for inclusion within the DCO or certified document that would enable and support innovative construction practices from contractors.

To promote and support innovative construction practices from contractors, it is essential to include clear and encouraging language within the DCO. Wording that can be considered for incorporation:

A) Introduction to Innovation:

"This project embraces and encourages innovative construction practices aimed at improving efficiency, sustainability, safety, and overall project quality. We welcome and appreciate the creative input and forward-thinking solutions from contractors to achieve these objectives."

B) Innovative Solutions Requirement:

"Contractors are encouraged to propose innovative solutions or construction techniques that align with project goals and meet or exceed industry standards. These solutions should be submitted for review and approval before implementation."

C) Collaborative Approach:

"A collaborative approach between the design team and contractors is highly encouraged to explore and implement innovative ideas. Regular communication and brainstorming sessions are essential for identifying and incorporating innovative construction practices."

D) Value Engineering:

"Contractors are encouraged to conduct value engineering assessments throughout the construction process to identify opportunities for cost-effective innovations without compromising project quality or safety."

E) Flexibility in Methods:

"Contractors are granted flexibility in selecting construction methods, materials, and technologies that are aligned with project goals and objectives. Proposed changes should be submitted for evaluation and approval, considering project specifications and regulations."

F) Performance-Based Criteria:

"Performance-based criteria will be used to evaluate innovative construction practices, focusing on outcomes such as cost-effectiveness, sustainability, safety improvements, and project schedule adherence."

G) Risk Mitigation:

"Contractors are encouraged to propose innovative risk mitigation strategies to address potential challenges and uncertainties that may arise during the construction process."

H) Documentation and Reporting:

"Contractors should maintain thorough documentation of innovative practices, including detailed plans, reports, and performance data. Regular reporting on the outcomes and benefits of these innovations is required."

I) Recognition and Rewards:

"Successful implementation of innovative construction practices may be recognized and rewarded through incentives or acknowledgments, demonstrating our commitment to fostering a culture of innovation."

J) Continuous Improvement:

"The project team is committed to a culture of continuous improvement, where lessons learned from innovative practices are shared and integrated into future projects to enhance the construction industry as a whole."

K) Compliance with Regulations:

"While encouraging innovation, all innovative practices must comply with applicable local, state, and federal regulations, building codes, and safety standards."

L) Dispute Resolution:

"In the event of disputes arising from the implementation of innovative practices, a collaborative resolution process will be pursued to ensure that the project's goals and quality are maintained."

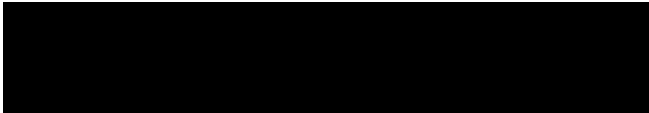
By incorporating these elements into the DCO or certified document, we can create a supportive framework for contractors to propose and implement innovative construction practices while ensuring that these innovations align with project objectives, standards, and regulations.

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