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**BY ONLINE SUBMISSION ONLY**

**Growth, Environment & Transport**

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Maidstone  
Kent  
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Your Reference:  
TR010032

KCC Interested Party  
Reference Number:  
20035779

Date: 31<sup>st</sup> October 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 6**

As outlined within the Examination Timetable (Annex A of the Rule 8 letter (PD-020), this letter is Kent County Council's Deadline 6 submission which provides the following:

- Responses to ExQ2

KCC's responses to the Examining Authority's second round of written questions and requests for information [PD-040] 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]



ExQ2	Question to:	Question:	Response:
8.	<b>Waste and materials</b>		
Q8.1.3	Applicant, Local Authorities, Port of London Authority	<p><b>Transportation of materials and waste</b> Please provide an update on any further discussions/agreement in respect of using river transportation for the delivery of materials and removal of waste? In responding, please provide information in respect of:</p> <ul style="list-style-type: none"> <li>• How river transportation could be maximised where it is appropriate; and</li> <li>• Where other transportation would be more efficient given the linear nature of the project?</li> </ul> <p>As a result of the responses provided on these points, are there any updates to the Code of Construction Practice (or other control documents) that should be made?</p>	<p>The use of the tunnel bore to transport the Chalk spoil negates the need to use river transportation for the vast bulk of the anticipated waste that will be generated. River transportation of materials to support the project can be accommodated by the current operational activities of the mineral wharves that are proximate to the project (in Kent). Therefore, it is not anticipated that the Code of Construction Practice requires to be materially changed.</p>
Q8.1.4	Applicant, Local Authorities and Environment Agency	<p><b>Excavated materials</b> With regard to the Outline Materials Handling Plan [REP5-051], the Excavated Materials Assessment [APP-435] and the Code of Construction Practice [REP5-049]:</p> <ul style="list-style-type: none"> <li>• Could greater certainty be provided that the quantities of excavated materials would not exceed the estimates?</li> <li>• In the event that quantities did exceed the estimates, what remediation/mitigation could be secured?</li> <li>• Should/could the controls in the Code of Construction Practice be updated to deal with a situation where the quantities were exceeded?</li> </ul>	<p>The quantity of materials to be generated, as in the tunnel bore spoil (Chalk) is known to fair levels of confidence. If there is any possibility to exceed the estimates by a significant margin it should be reflected in the Excavated Materials Assessment. If this were to happen, remediation should be sought to ensure that any excess is recycled or reused offsite. This should be documented as part of a remediation package that the Outline Materials Handling Plan could include.</p>
Q8.1.5	Applicant, Local Authorities and Environment Agency	<p><b>Waste hierarchy</b> Could/should the wording in MW007 of the Code of Construction Practice [REP5-049] be strengthened to provide greater certainty that the waste hierarchy will be followed appropriately? Would the use of individual targets for different materials be an appropriate approach?</p>	<p>Inert waste, the Chalk spoil is to be entirely re-used, and not disposed of. The non-inert non-hazardous wastes appear to be likely to be a very small percentage of the overall arisings. They will be transported to appropriately permitted facilities that will utilise these materials away from simple disposal, e.g., metals and any aggregate forming materials. If disposal is to occur, it should be because they cannot be recycled or reused. The Code could be strengthened if this was set out showing how the defined waste hierarchy will be respected.</p>
10.	<b>Road drainage, water environment and flooding</b>		
Q10.1.2	Applicant, Lead Local Flood Authorities (LLFAs)	<p><b>Infiltration ponds</b> In the Applicant's response to ExQ1 Q10.2.3, it is suggested that "the overtopped flows would be guided towards existing (pre-development) exceedance flow paths. Any civil works required to establish the flow paths would be within the Order Limits but overtopped flows would eventually be discharged to areas where existing exceedance flows naturally gather which may be beyond the Order Limits." Can the Applicant provide further information to demonstrate that the situation 'outside the Order Limits' is no worse after implementation of the scheme than is currently the case? Where is this secured in the dDCO and do the LLFAs agree that sufficient provision is secured within the DCO?</p>	<p>6.3 Environmental Statement Appendices Appendix 14.6 - Flood Risk Assessment - Part 6, [APP-465] States "Overland flow paths would be established to manage any overtopped flows where appropriate [RDWE034]". Schedule Part 1, section 8 paragraph 1 of the dDCO states "No part of the authorised development is to commence until for that part written details of the surface and foul water drainage system, reflecting the mitigation measures set out in the REAC including means of pollution control, have been submitted and approved in writing by the Secretary of State following consultation by the undertaker with the Environment Agency, the lead local flood authority, the relevant planning authority and the relevant local highway authority on matters related to their respective functions." As part of this consultation, Kent County Council (KCC) would expect for the overland exceedance flow paths to be demonstrated and would only recommend acceptance once confident no detrimental effect of overtopping is demonstrated.</p> <p>Furthermore, given the nature of the topography surrounding the proposed basins it is highly likely that any overtopping will ultimately end up within an EA/IDB managed watercourse. Section 19 of dDOC paragraph 3 states "The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld." KCC would therefore</p>

			expect the receiving network owner to assess the implication of any over topping that may enter their network.
Q10.4.1	Applicant Lead Local Flood Authorities (LLFAs) Internal Drainage Board (IDB)	<p><b>Operational surface water drainage pollution risk assessment</b></p> <p>The Applicant's response is noted for question ExQ1 Q10.6.2; however, in relation to the proposed locations of outfalls it is stated that they are "subject to confirmation during the detailed design of operational drainage networks".</p> <ul style="list-style-type: none"> <li>• How is this flexibility secured within the DCO in order that any changes during the detailed design stage can be accommodated in flood risk terms in addition to the pollution risk on which has been commented?</li> <li>• Are the appropriate Drainage Authorities content with the arrangements?</li> </ul>	Aside from the fact the clauses mentioned above in the dDCO would appear to manage these concerns, the outfalls referred to in the document Appendix 14.3 – Operational Surface Water Drainage Pollution Risk Assessment [APP-456] (as referred to in ExQ1 Q10.6.2) would seem to be concerned with outfalls north of the Thames and so outside of KCC's jurisdiction.
<b>11.</b>	<b>Biodiversity</b>		
Q11.1.2	Natural England IPs with an interest in the natural environment Applicant	<p><b>Monitoring of success</b></p> <ol style="list-style-type: none"> <li>1. Do Natural England and other IPs agree that the proposals suggested in the Applicant's response to question Q11.5.2 provide a robust method of monitoring the success of species mitigation proposals?</li> <li>2. Should aspects of the monitoring of the success of the proposed Green Bridges in relation to the use by the design species be undertaken alongside any monitoring required to meet Licence Applications?</li> <li>3. In the document [REP4-182] the Applicant suggests that the oLEMP [REP3-106] refers to monitoring target habitats. Should the oLEMP be more specific in relation to species monitoring?</li> <li>4. Over what time period should monitoring and subsequent mitigation and remedial action of different species, take place and are there natural, extreme weather events that justify extensions to the periods of assessment and replacement suggested? Can the Applicant set this information out in a table.</li> <li>5. How could such be secured in the documentation?</li> </ol>	<ol style="list-style-type: none"> <li>1. Species mitigation proposals need to be continuously reviewed as part of the management group and there must be acceptance that the monitoring may have to be carried out for up to 30 years. The results of the monitoring must be carried out to inform reviews and updates of the management plan.</li> <li>2. The Bat Licence states that Activity surveys will be undertaken at the green bridges in the first full year post-construction, and at alternate years following this: 2028, 2030, 2032, 2034, and 2036. However annual surveys should also be carried out for at least the first 5 years to ensure that the habitat establishes as intended.</li> <li>3. Yes - there is a need to ensure that the OLEMP is considering the species monitoring as the success of the species mitigation is linked to the habitats establishing as intended.</li> <li>4. Initially annually/biannually for the first 5-10 years during construction / upon completion. When the monitoring will start will depend on the species. So for example the reptile monitoring should start as soon as the translocation has been completed, but the assessment of bat activity and the use of the replacement planting cannot start until the planting has been carried out. After 5 years a review of the data should be carried out and then assessment of what surveying is needed - it may need to be carried out for the subsequent 5-20 years. Extensions should be based on an analysis of the data. If it is showing that the mitigation has not been successful, then more monitoring will be required.</li> <li>5. It needs to be clear the length of time the monitoring could be needed for and a commitment to paying for it. It needs to be agreed by the advisory board if the monitoring should continue so there is external body oversight.</li> </ol>

Q11.4.1	Applicant Natural England Kent Downs AONB Unit Kent County Council Gravesham Borough Council Shorne Parish Council	<p><b>Retention of construction compound as a car park: AONB considerations</b> It is suggested that the intention is for part of the construction compound in this location (Work No. CA2) to be repurposed as a car park.</p> <ul style="list-style-type: none"> <li>• Is an additional car park in this location necessary?</li> <li>• Should this facility be viewed as necessary, can its location be justified in AONB terms?</li> <li>• To the extent that additional visitors to this part of the AONB potentially could have negative implications from overuse on particular trees/paths, but additional parking provision may encourage additional visitor use and pressure;</li> <li>• Can the Applicant signpost where the introduction of a new permanent car park is assessed within the submitted documentation and the AONB effects, if any, that are attributed to it?</li> <li>• Is further mitigation required to be provided, or can it be demonstrated that it is accommodated within existing proposals? How is this secured?</li> </ul>	<p>KCC considers this matter not agreed. KCC does not want to take the car park on if income cannot be generated to cover the car park's maintenance and operational costs. KCC inheriting the car park would also potentially reduce National Highways dilapidations.</p> <p>Please refer to Kent County Council's Submission to Deadline 4 [REP4-308] Appendix A: Definitive Statement by Kent County Council on the impacts of the Lower Thames Crossing related to Community Assets / Shorne Woods Country Park; Community Assets Impact C: Proposed Car Park at Thong Lane</p> <p>KCC would defer to Kent Downs AONB Unit in matters of mitigation.</p>
Q11.4.2	Applicant Natural England Kent Downs AONB Unit Kent County Council Gravesham Borough Council Shorne Parish Council	<p><b>Retention of construction compound as a car park: SSSI considerations</b> With reference to the impact of the construction compound retention raised in Q11.4.1, there are potential impacts on the Shorne and Ashenbank Woods SSSI that also arise from this proposal. Natural England currently view these as underassessed.</p> <ul style="list-style-type: none"> <li>• Is an additional car park in this location necessary?</li> <li>• Should this facility be viewed as necessary, can its location be justified in SSSI terms?</li> <li>• If there is a view that a permanent car park is to be created, the Applicant is requested to set out its latest view on the number of vehicles using the car park each day (moving on from the assessment in the ES of one trip each way per carparking space), to a breakdown of modes of access.</li> <li>• A statement of any mitigation measures necessary in respect of the SSSI designation should also be provided. Where would this be secured?</li> </ul>	<p>KCC considers this matter not agreed. As stated in response to Q11.4.1 above, KCC does not want to take the car park on if income cannot be generated to cover the car park's maintenance and operational costs. KCC inheriting the car park would also potentially reduce National Highways dilapidations.</p> <p>Please refer to Kent County Council's Submission to Deadline 4 [REP4-308] Appendix A: Definitive Statement by Kent County Council on the impacts of the Lower Thames Crossing related to Community Assets / Shorne Woods Country Park; Community Assets Impact C: Proposed Car Park at Thong Lane</p> <p>KCC would defer to Natural England in matters of mitigation.</p>
<b>16. General and overarching questions</b>			
Q16.1.2	Applicant Local Authorities	<p><b>Environmental Management Plan (EMP) Q2</b> Paragraph 2.3.9 of Document 6.3, Appendix 2.2 Code of Construction Practice (First iteration of Environmental Management Plan) v5 [REP5-049] states that "The EMP2 will require that construction phasing plans are made available to the local authorities, prior to works commencement."</p> <p>The ExA acknowledges that Document 6.3, Appendix 2.2 Code of Construction Practice (First iteration of Environmental Management Plan) v5 [REP5-049] includes a communication and community engagement section at Chapter 5, but the ExA seeks the views of the Applicant and the Local Authorities on whether the requirement set out in Paragraph 2.3.9 should have an identified lead period so that local authorities can communicate with their residents sufficiently in advance. The ExA considers that building in a lead time for this information to be shared would reduce complaints to a Local Authority and to National Highways when construction starts.</p>	<p>KCC suggests a 12 week lead period for local authorities to communicate with their residents in advance of LTC works.</p>

