

Application by National Highways for an Order Granting Development Consent for the Lower Thames Crossing

Agenda for Issue Specific Hearing 14 (ISH14): the draft Development Consent Order (dDCO)

Hearing	Date and Time	Location
Issue Specific Hearing 14: the dDCO	Tuesday 28 November 2023 Hearing Starts at 10am Blended event Venue Registration Process from 9:15am Virtual Registration Process from 9:15am	Hilton London Tower Bridge Hotel 5 More London Place, London SE1 2BY By virtual means using Microsoft Teams

Agenda¹

- 1. Welcome, introductions, arrangements for the Hearing**
- 2. Purpose of the Issue Specific Hearing**
- 3. Responses to the dDCO Commentary: Matters where guidance is sought**

The ExA will consider requests for discussion from IPs:

a)	Discussion of and guidance on dDCO Commentary matters
i	<ul style="list-style-type: none"> • The ExA will provide an opportunity for IPs to seek guidance on dDCO Commentary Matters • Matters flagged by IPs as being unclear or in dispute may be discussed

The Applicant will be provided with a right of reply.

¹ The ExA may revise Item 5 of this Agenda if required, having considered written submissions at Deadline 6A. A revised Agenda will be published no later than 20 November 2023.

4. Issues from the dDCO Commentary: Matters of particular concern

The ExA will ask questions of the Applicant and the relevant local authorities on the following matters:

a)	Definition of ‘Commence’ and ‘Begin’
i	<ul style="list-style-type: none"> The definition of the term ‘commence’ excludes ‘preliminary works’, whereas submissions on the term ‘begin’ have suggested that intentionally it does not, but yet this division does not appear to be clear on the face of the dDCO as drafted. Clarity about the effect of these terms is important in terms of understanding the inception of works for the purposes of the Control Documents (CDs) Are any further drafting refinements proposed by the Applicant?
b)	Time limits
	<ul style="list-style-type: none"> The time limits for the commencement/ beginning of the authorised development and the compulsory acquisition of land or rights are different and the basis for and effect of the difference are not clear. Are any further drafting refinements proposed by the Applicant?
c)	Dispute resolution for DCO processes
i	<ul style="list-style-type: none"> Procedure for discharge of Requirements (Sch 2 Part 2) What happens if the SoS refuses a discharge application?
ii	<ul style="list-style-type: none"> Arbitration The role of the SoS The role of other statutory authorities
d)	Re-provision of Gammon Field² (R13)
i	<ul style="list-style-type: none"> The ExA wishes to discuss the matters that it has identified in the dDCO Commentary with the Applicant and the Local Planning Authority Clarity on the effects of managing a site consented under the NSIP regime is sought
ii	<ul style="list-style-type: none"> The ExA has requested a legal view from the Applicant on the effect of PA2008 115 (1) (c) and (4B) Emerging considerations and views (if any) from the Local Planning Authority will also be explored

Other IPs will be welcome to participate.

The Applicant will be provided with a right of reply.

5. Review of dDCO positions relating to traffic and transport¹

Consideration of the potential content of ExA questions on this topic has been reserved until the closure of Deadline 6A and will be coordinated with that for ISH13 (traffic and transport). It may be necessary for the ExA to issue a request for further information under EPR Rule 17.

Matters to include (if required)	Content and effect of Requirements with traffic and transport effects
	<ul style="list-style-type: none"> R10 – Traffic management

² The names Gammon Field, Gammonfield and Gammonfields are found in Examination documents. The ExA will be guided on preferred usage.

	<ul style="list-style-type: none"> • R11 – Construction travel plans • R17 – Passive provision for Tilbury link road • R18 – Operation of the Orsett Cock roundabout • Other Ports and local access considerations • Traffic and intersection monitoring
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Other IPs will be welcome to participate.

The Applicant will be provided with a right of reply.

6. Other DCO business arising from November Hearings

If necessary, the ExA will ask questions of the Applicant and IPs as required on DCO matters arising from ISHs 11 – 13, OFH5 or CAH5 where these have not been addressed in the dDCO Commentary, in ExQs or dDCO ISHs to date or appear to be changed, complex, multi-party and/ or disputed. Arrangements for the Applicant's submission of a preferred dDCO and Control Document set will also be discussed.

a)	Matters arising from ISHs 11 – 13, OFH5 or CAH5
	<ul style="list-style-type: none"> • Issues and questions if and as required
b)	The Applicant's preferred dDCO and Control Documents submission
	<ul style="list-style-type: none"> • Arrangements for final submissions and responses to them

Other IPs will be welcome to participate.

The Applicant will be provided with a right of reply.

7. Next Steps

This item will include business relating to the conclusion of hearings and progress towards the end of the Examination

8. Closing

Purpose of this ISH

The purpose of this ISH is to inquire into matters relating to the draft Development Consent Order (dDCO) arising from the proposed development in respect of which the ExA has remaining questions of the parties.

Attendees

The ExA would find it helpful if the following parties could attend this Hearing.

- The Applicant
- Any host local authority (representing local planning authority and local highway authority functions)
- Transport for London
- Any other public authority with a proposed function under the dDCO and specifically the Environment Agency, Natural England and Historic England
- Any proposed beneficiary of protective provisions
- Any utility service provider or statutory undertaker with land, infrastructure, alignments or apparatus affected by the dDCO
- Any port authority or port operator affected by the dDCO
- The Marine Management Organisation (MMO)
- The Thames Crossing Action Group (TCAG)
- The Gammon Field Community

However, this does not indicate that other parties will not be able to contribute. All IPs are invited to attend and make oral representations on the matters set out in the Agenda, subject to the ExA's ability to control the Hearing. Anyone wishing to attend the Hearing who has not already advised the Case Team of this, should do so as soon as possible.

The Applicant is requested to have people with the following expertise available to assist the hearing:

- Land use planning, development management and enforcement
- Legal advice, law and statutory drafting relevant to the dDCO and statutory instrument

This list may also assist other IPs who are able to draw on staff or advisors to support them.

The ExA has sought to provide sufficient detail to assist the parties to prepare for the Hearing. The details set out above are indicative and the ExA may find it necessary to include additional Agenda items or to amend the order in which the items are dealt with.

The event will be livestreamed and a link for watching the livestream will be posted on the [project webpage of the National Infrastructure Planning website](#) closer to the Hearing date. IPs and members of the public who wish to observe the Hearing can view and listen to the Hearing using the livestream, or view and listen to the recording, after it has concluded. For the avoidance of doubt, you are advised that the recordings that we make are retained and published and form a public record that can contain your personal information and to which the UK General Data Protection Regulation applies.

Registration Process

Registering as a speaker

The speakers invited to this hearing are listed above. If you are invited, please register at **9-15am**. This enables arrangements to be explained and hearings to make a prompt start.

You can register in person at the venue. If you are attending virtually, you will receive joining and registration instructions in a separate email, shortly in advance of the event. This email will also explain what to do if you have difficulties getting connected.

Observing the hearing

Hearings are held in public. If you are not speaking, public seating at the venue will be open from **9-15am**. If you are observing on-line, please go to the [project landing page](#) on the National Infrastructure Planning website where you will find:

- on the day - a link to a livestream to watch the hearing in real time; and
- after the event has closed - a link to the recordings of the hearing

All Interested Parties (IPs) are welcome to submit observations in writing by the deadline following the hearing.

Procedure at an ISH

Guidance under the Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010 provides that it is for the ExA to probe, test and assess the evidence through direct questions of persons making oral representations at Hearings. Questioning at the Hearing will be led by the ExA. Cross questioning of a person giving evidence by another person will only be permitted if the ExA decides it is necessary to ensure representations are adequately tested or that an IP has had a fair chance to put its case.

Parties attending an ISH for the first time are encouraged to view parts of previous ISH1 held at the start of this Examination, using the recordings held online. Whilst the matters to be examined in this hearing – identified in this Agenda – will be different, the approaches taken to hearing management and involvement by parties will be similar. Introductory and advisory material included in the opening stages of that hearing will not be set out in full in later hearings and so the ISH1 recording of the opening session on Day 1 will assist those who are not familiar with this type of hearing.

- ISH1 Recordings ([Day 1 – 21 June 2023](#))
- ISH1 Recordings ([Day 2 – 23 June 2023](#))

Participants at the hearing are reminded of the importance of respecting all other participants and allowing everyone here to have their say. Please do not interrupt the other speakers. If the ExA needs to clarify something that is being said, then the ExA will intervene. Unnecessary interruptions that disrupt the hearing can be viewed as unreasonable behaviour for which awards of costs can be sought by other interested parties; they can also lead to a party being removed from the hearing.

Every effort will be made to ensure that the issues will be discussed on the day that they are scheduled for. The hearing will finish as soon as the ExA deems that all those present have had their say and that all matters have been covered. If there are additional matters to be dealt with or there are submissions that take a considerable amount of time at any hearing, it may be necessary to prioritise matters and defer others to written responses to actions, to written questions or to a subsequent hearing.

Please contact the Case Team if you have any questions regarding the arrangements for the hearing or how to participate.

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