

Interested party reference: 20035666

TRANSPORT FOR LONDON

LOWER THAMES CROSSING – COMMENTS ON SUBMISSIONS MADE AT DEADLINE 9

DEADLINE 9A: 15 DECEMBER 2023

1. Introduction

- 1.1 This document sets out comments from Transport for London (TfL) on submissions made by the Applicant at Deadline 9 of the Lower Thames Crossing (LTC) Development Consent Order (DCO) examination.
- 1.2 Where TfL has set out its position on a matter in previous submissions, TfL has signposted the relevant parts of those previous submissions rather than repeating its position in detail in this submission. In responding to the Applicant's submissions, TfL has provided a final summary of where its position is set out in its previous representations.

2. Draft Development Consent Order v11.0 (tracked changes) (REP9-108)

- 2.1 TfL welcomes the amendments made to the protective provisions for the benefit of local highway authorities in the final dDCO (Schedule 14 Part II). The London Borough of Havering is submitting a final joint representation on protective provisions on behalf of all five local highway authorities (LHAs) at Deadline 9A covering a range of matters which the LHAs consider should be included in the final DCO. This includes drafting for paragraphs on commuted sums and costs which TfL considers to be essential. TfL has summarised the justification for inclusion of these paragraphs in Section 4 of this submission, with signposting to TfL's previous representations on these matters.

3. Wider Network Impacts Management and Monitoring Plan v2.0 (tracked changes) (REP9-232)

- 3.1 TfL notes that an updated version of the Wider Network Impacts Management and Monitoring Plan (WNIMMP) has been submitted at Deadline 9, although no amendments have been made to the text of the plan. This means that no changes have been made during the entire course of the examination since the WNIMMP was first submitted as part of the DCO application. TfL is disappointed that the Applicant has steadfastly refused to make changes following any of the representations made by TfL or other Interested Parties on wider network impacts over this period. TfL considers the without prejudice approach included in the Applicant's Wider Network Impacts Position Paper (REP6-092) to be wholly inadequate as it does not secure any means of mitigating unforeseen adverse traffic and environmental impacts that may arise on the local road network. A summary of TfL's position with signposting to its previous representations is provided in Section 4 below.

4. Applicant's responses to Interested Parties' comments on the draft Development Consent Order at Deadline 8 (REP9-275)

Introduction

- 4.1 This submission by the Applicant covers its position on all of the key issues remaining for TfL at the end of the examination. For ease of reference for matters on which the ExA and Secretary of State will need to adjudicate, TfL has therefore signposted its key

representations on each of the matters in this section. The matters are covered in the order they arise in the Applicant's submission.

Commuted sums and costs

- 4.2 Section 2 of the Applicant's submission responds to the second joint submission on protective provisions put forward by the LHAs. As noted in Paragraph 2.1 above, a response on behalf of TfL and the other LHAs has been submitted by the London Borough of Havering at Deadline 9A.
- 4.3 Section 2.4 of the Applicant's document covers its position on commuted sums. In Paragraph 2.4.2, the Applicant recognises that the LHAs have adjusted their position to only seek commuted sums for TfL and the London Borough of Havering, given the different funding circumstances for LHAs in London compared to those outside London. The Applicant has maintained its position that it believes that because TfL and the London Borough of Havering do receive some funding from central Government, no commuted sums should be paid. The Applicant's argument fails to acknowledge the small magnitude of funding that TfL and the London Borough of Havering receives from the Government for highway maintenance, which falls far short of the cost of maintaining its highway network. The Applicant also fails to recognise that there is no long term approach to adjust highway maintenance funding received in London to account for changes in the asset base, so there is no link between the infrastructure being delivered by the Project which TfL and the London Borough of Havering are being asked to maintain and any future highway maintenance funding allocated by Government.
- 4.4 It is for these reasons that the Secretary of State included protective provisions for the protection of TfL in the M25 Junction 28 improvements DCO (Schedule 9 Part 7 Paragraph 73). TfL considers there is no reason why provision of a commuted sum would not be appropriate for the LTC Project when it was deemed so for M25 Junction 28. The Applicant continues to use the argument that the new walking, cycling and horse riding (WCH) bridge over the A127 west of M25 Junction 29 is not required to address severance caused by the Project. TfL maintains that it is absolutely clear that the bridge is required to address severance caused by the Project, as well as helping to address historic severance, given both the loss of the non-motorised user (NMU) route around the south side of the M25 Junction 29 roundabout which is severed by the Project – and that this was previously the clear position of the Applicant. TfL also points to the very substantial increase in traffic flows (up to 1400 additional PCUs for both directions combined at peak times) which will make it much more difficult to cross the carriageways at grade. TfL notes that the Applicant did not respond to the points TfL made about the increased traffic flows caused by the Project (REP8-171 Paragraphs 4.5 and 4.6, and Table I).
- 4.5 Regarding costs, Paragraph 2.5.1 of the Applicant's submission fails to address TfL's position. TfL neither has a section 106 agreement with the Applicant for the Project, nor is it funded by the Department for Transport for costs associated with dealing with the impacts on its assets caused by the Project. As for a commuted sum, this is why the protective provisions for the protection of TfL in the M25 Junction 28 improvements DCO also included a provision to cover TfL's costs (Schedule 9 Part 7 Paragraph 72). TfL considers this is an appropriate precedent to follow as the circumstances and principles around costs are no different for the LTC Project compared to the M25 Junction 28 improvements scheme.
- 4.6 For ease of reference, TfL's previous representations on commuted sums and costs are as follows:

- TfL set out its initial submission on why a commuted sum and costs were necessary for TfL in its Written Representation (REPI-304 Paragraphs 4.9 to 4.15).
- This matter was discussed in Issue Specific Hearings (ISHs) 4 and 7, and TfL provided further justification for a commuted sum here, including evidence about why a bridge was required instead of an at-grade crossing (REP4-359 Paragraphs 6.7 to 6.15).
- In response to the Applicant's assertion that the Project does not cause severance and therefore a commuted sum is not justified, TfL countered this argument in response at Deadline 5 (REP5-114 Paragraphs 5.1 to 5.5).
- TfL then further set out where the Applicant acknowledged the bridge did cause severance around M25 Junction 29 in its post-event submissions following ISH10 (REP6-170 Paragraphs 3.1 to 3.9).
- TfL provided additional data showing the scale of the increases in traffic caused by the Project, helping set out why a commuted sum is so justified, at Deadline 8 (REP8-171 Paragraphs 4.4 to 4.7).
- The London Borough of Havering is submitting a joint response on behalf of the LHAs at Deadline 9A which includes the final proposed drafting for provisions covering commuted sums and costs.

Wider network impacts

- 4.7 The Applicant comments on TfL's submissions about wider network impacts and the need for mitigation in Section 13.2 of its document. This primarily signposts to the Applicant's previous representations. TfL has set out throughout the examination why it considers an approach to mitigating the unforeseen traffic and environmental impacts of the Project to be necessary. TfL considers the proposed requirement developed jointly by the Port of Tilbury London, DP World London Gateway, Thames Enterprise Park and Thurrock Council to be the most suitable drafting before the examination for such a requirement (REP8-166 Appendix D).
- 4.8 TfL's previous representations on wider network impacts are summarised below:
- TfL set out its initial position about why an approach to mitigating the unforeseen traffic and associated environmental impacts of the scheme was necessary in its Written Representation, citing the lack of robustness of the highway modelling as one reason this approach was necessary (REPI-304 Section 3).
 - The approach to mitigation was covered extensively at ISH4. In its post-event submission (REP4-359), TfL provided its views on the alignment of the Applicant's approach with the National Policy Statement for National Networks (Paragraphs 3.3 to 3.14) and critiqued the Applicant's justification for its approach to mitigation (Paragraphs 6.16 to 6.23).
 - In response to the Applicant's submissions at Deadline 4, TfL provided further detail on the lack of consistency of the Applicant's approach with local and national policy (REP5-114 Paragraphs 4.5 to 4.11) and responded to the Applicant's comments about the Silvertown Tunnel approach in Paragraphs 5.6 to 5.10.
 - Following ISH10, TfL responded to the Applicant's updated statement on wider network impacts (REP6-170 Section 2) and provided more detail about the Silvertown Tunnel approach in Section 4.
 - The Applicant submitted its Wider Network Impacts Position Paper at Deadline 6 and TfL provided detailed comments on this, explaining why TfL considered the approach to be wholly inadequate for the local road network (REP7-229 Sections 4 and 5).

- Finally, TfL set out its support for the proposed requirement covering wider network impacts developed jointly by the ports and Thurrock Council at Deadline 8 (REP8-I71 Paragraphs 4.4 to 4.7).

Responses to comments on the ExA’s commentary on the dDCO

- 4.9 Section 14 of the Applicant’s submission responds to TfL’s comments on the ExA’s commentary on the draft DCO at Deadline 8 (REP8-I72). The Applicant does not change its position on the main points of concern raised by TfL, nor provide new evidence. As such, TfL has no further comments to offer.