

Lower Thames Crossing TR010032

Deadline 9A Submission

Thames Crossing Action Group

Unique Reference: 20035660

DEADLINE 9A (15th December 2023) / Submitted 15th December

Introduction

1. Thames Crossing Action Group represent those who are opposed to the proposed LTC.
2. This Deadline 9A submission includes our comments in regard to:
 - Deadline 9 submissions
 - As well as some brief additional evidence that we hope is helpful.
3. We wish to put on record that we have not had any early access to any documents from NH, prior to the official publication of documents on the PINS website, either at this or any previous deadlines. This has meant that we have extremely limited time to attempt to review D9 submissions and provide comment.
4. We would therefore like to make it clear, for the avoidance of any misunderstanding, that just because we may not have commented on something doesn't mean that we necessarily agree or support it. In fact generally you can be assured that in regard to NH proposals we will very likely have issue and concern.
5. Should you need any further clarification or information please do not hesitate to ask. We thank you for your time and consideration as always.

Comments on D9 submissions

6. We note that it appears NH have started to update various documents to recognise that the southern section of The Wilderness has been designated as Ancient Woodland.
7. However, we also note that there has been no acknowledgement that the remainder of The Wilderness has been designated as Long Established

Woodland.

8. We acknowledge that Long Established Woodland is a new designation category, and that as such it is so new that protections are yet to be associated.
9. However, since this designation category has been indicated, it confirms that government see a need to recognise such valuable woodlands and the need to protect them, rather than leaving them categorised as general woodland.
10. We therefore believe that NH should recognise and identify that the remainder of The Wilderness is amongst the first woodlands to be added to the Long Established Woodland Inventory, and recognition of it's designation be recognised within the proposed LTC.
11. The impact not only being the obvious direct impacts to the woodland and how it would be impacted by the loss of the southern section of woodland, but also nitrogen deposition effects etc, due to the close proximity to the LTC route. Long Established Woodland is after all a designation that has been given to The Wilderness.
12. This designation should also mean that the Secretary of State for Transport gives additional weight to the need to save and protect The Wilderness as a whole, including both the section designated as Ancient Woodland and the remainder that has been designated Long Established Woodland.
13. NH's failure to acknowledge the Long Established Woodland designation is unacceptable. The priority should be to avoid any loss or impacts, if not then minimise or adequately mitigate or compensate if there is absolutely no other option.
14. Although for the record we deem it completely possible for them to avoid The Wilderness, but NH have chosen to destroy and impact it so as to avoid the extra work and cost involved in going through the nearby landfill site.
15. At a time of climate emergency, when our country is one of the most nature depleted in the world, and when our government have made commitments to protect and enhance trees, woodland and the natural environment as a whole, to destroy and impact woodland that has been designated Long Established and Ancient, in order to avoid a landfill site is completely unacceptable.

16. Since NH failed to identify that The Wilderness was Ancient Woodland, despite our presenting evidence to them for many years, and there being ancient woodland indicators present, we would also question whether adequate surveys will be carried out, since clearly the ones NH have carried out previously were inadequate. We feel it important that as it is proven the surveys NH have carried out to date have been inadequate they need to be reviewed and adequate surveys be carried out.
17. We also question whether The Wilderness should be recognised within 9.98 Policy accordance assessment of the Project against the Consultation draft NPSNN (published March 2023) [REP9-260], and 7.2 Planning Statement Appendix A – National Policy Statement for National Networks (NPSNN) Accordance Table [REP9-217] since other Ancient Woodlands seem to be mentioned in the documents. Again, we would hope that some kind of reference would also be made in regard to the Long Established Woodland designation too.

Additional evidence

18. We have previously voiced concerns over value for money in regard to the proposed LTC, and also the fact that we do not believe there has been adequate independent review of the project, only reviews based on biased information that has purely been provided by NH.
19. In this regard, we would additionally like to draw the ExAs attention to Contract Award Notice for the LTC – Independent Commercial Review (ICR) contract ¹.
20. We question why the award of this contract was made without prior publication of a call for competition, and that there was only one tender received, and that this process appears to have been reviewed by the Cabinet Office around the time of the IPA review.
21. This contract was awarded to Agilia Infrastructure Partners Limited.
22. The contract is supposed to be an Independent Commercial Review of the LTC project, with 'independent' being a keyword in the title.
23. However, after some online research it appears to us that the so called Independent Commercial Review doesn't appear to be as independent as

¹ <https://www.find-tender.service.gov.uk/Notice/021780-2023?origin=SearchResults&p=1>

you would hope and expect.

24. One of the company's joint MDs, Mike Pugsley's bio on the company website² refers to him working on the LTC, mentioning LTC as a £4.1bn project, which dates this reference as prior to the 2023 contract being awarded.
25. In fact a bit more online research discovered a March 2019 article³ that states he "...has recently led the consideration of Private Finance for the Lower Thames Crossing Project".
26. Additionally, one of the company's Project Directors, Benn Prynns bio on the company website⁴ states, "A Chartered Accountant by training Ben has worked as a financial and commercial adviser to help deliver dozens of PFI/PPP projects and manage key workstreams on several large-scale high-profile infrastructure projects in the UK and overseas including the Lower Thames Crossing, the Solidarity Transport Hub, Trafikverket's High Speed Rail programme and the Thames Tideway Tunnel."
27. Mr Prynns LinkedIn profile⁵ details that he worked as a Commercial Adviser for Jacobs between Jan 2013-Dec 2021 and mentions he worked on major project delivery – principally Thames Tideway Tunnel and the Lower Thames Crossing. Further down his profile under 'Projects' it states LTC from Sept 2016-Jun 2020.
28. On Agilia's LinkedIn profile there's a post⁶ saying they are in a consortium with Jacobs. Jacobs of course also happen to be Integration Partner for LTC.
29. How can a company with prominent members of their staff that have previously worked on the LTC, and a company that has ties to one of the major contractors on the LTC be considered 'Independent'?
30. Particularly if this supposed Independent review is supposed to advise Government and other official bodies we cannot see how this can be ethical.
31. This along with the fact that official representations of the estimated cost of the proposed LTC are still as of August 2020, we find to be misleading and unacceptable.

² <https://www.agilia.co.uk/team/mike-pugsley>

³ <https://www.omegacentre.bartlett.ucl.ac.uk/event/the-thames-tideway-tunnel-developments-in-public-private-partnership-ppp-arrangements/>

⁴ <https://www.agilia.co.uk/team/ben-prynn>

⁵ <https://www.linkedin.com/in/ben-prynn-92021a25/?originalSubdomain=uk>

⁶ <https://www.linkedin.com/feed/update/urn:li:activity:6734781198079422464/>

32. One of the reasons we came across this contract was because we were researching another recently awarded contract, for the LTC Tunnels and approach roads.
33. Our interest was due to industry coverage that was stating that the value of this contract had dropped from £2.3bn to £1.34bn. We find such a large drop in value to be questionable, particularly considering the 2 year rephasing of the LTC, and the general large rises in costs of everything.
34. Construction News reported⁷, "*National Highways spokesperson said the initial figure was a limit that included contingency for risk and the procurement process had enabled cost efficiencies to be identified, reducing the overall value.*"
35. Ground Engineering reported⁸, "*The original contract limit published in the Official Journal of the European Union (OJEU) in 2020 at the start of the procurement process was given as £2.3bn. According to a National Highways spokesperson, "the final value was always expected to be lower, as the OJEU value included allowances for risk and any unknowns". In addition, "a competitive dialogue procedure was carried out for this procurement, which enabled solutions to be considered and developed throughout the procurement to identify cost efficiencies".*"
36. We question that they seem to be suggesting that they are removing contingency for risk and unknowns from such a huge and complex project. Particularly as the Transport Select Committee inquiry hearing into RIS, earlier this year, raised concerns over NH's use of contingency funds, as they had already all been spent for RIS2 despite the current RIS period still having a number of years to run.
37. New Civil Engineer reported⁹, "*HMJV officials have told NCE that they intend to use a single tunnel boring machine (TBM) for the project. After completing the first drive, it will be rotated in the north portal and sent southwards again for the second bore.*"
38. Since the issue of whether one or two Tunnel Boring Machines (TBMs) would be used for LTC has been raised and discussed in LTC Examination Issue Specific Hearings (ISH), and we were told it would be up to the contractor to decide; we wonder since the contractor is apparently stating publicly that it

⁷ <https://www.constructionnews.co.uk/contracts/bouygues-and-murphy-jv-lands-1-34bn-lower-thames-tunnel-job-07-12-2023/>

⁸ <https://www.geplus.co.uk/news/bouygues-murphy-team-wins-1-34bn-lower-thames-crossing-tunnelling-contract-08-12-2023/>

⁹ <https://www.newcivilengineer.com/latest/bouygues-murphy-jv-wins-1-3bn-lower-thames-crossing-tunnelling-contract-07-12-2023/>

would be using one TBM whether the DCO application documents will be updated to reflect this decision? At very least we hope this will assist the ExA in their consideration of the project for their recommendation, since there were a lot of concerns raised at the ISH on this matter.