

Reference number: TR010032
Document reference: TR010032/APP/11.8

Mr Bartkowiak (Case Manager)
The Planning Inspectorate
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

A122 Lower Thames Crossing
National Highways
Woodlands
Manton Lane
Bedford
MK41 7LW

National Highways Customer Contact
Centre: 0300 123 5000

12 December 2024

Dear Mr Bartkowiak,

A122 Lower Thames Crossing (Reference Number TR010032)

1 Response to Secretary of State letter of 28 November 2024

1.1 The Applicant is responding to the letter from the Secretary of State published on 28 November 2024.

2 Request for comments from the Applicant

2.1 The Secretary of State's letter of 28 November 2024 sets out that:

(3) The Secretary of State received responses from [Gravesham Borough Council](#) and the [owners/operators of Whitecroft Care Home](#) in response to the Secretary of State's [consultation letter](#) of the 12 November 2024.

(4) All interested parties are invited to provide any comments they may have on these responses.

2.2 The Applicant provides comments on each of these responses below.

Gravesham Borough Council

(i) Introduction

2.3 The Applicant notes [Gravesham Borough Council's submissions](#) in relation to the discontinued Gravesend-Tilbury ferry link service. It is understood that the

Council is requesting that the Secretary of State consider securing commitments:

- a. for the Applicant to submit a scheme for reinstatement of the ferry service; and/or
- b. for a portion of future Lower Thames Crossing (LTC) road user charging revenue to be used for subsidising the ongoing operation of the reinstated ferry service.

2.4 While the Applicant supports the provision of public transport and active travel modes in principle, it is not appropriate in the context of the DCO application for the Applicant to fund the discontinued ferry service with LTC road toll revenue for three reasons:

- a. the 2015 National Planning Statement for National Networks (“2015 NPSNN”) does not provide policy support for road tolls or charges to be used to fund other modes of river crossing transport;
- b. the 2024 National Planning Statement for National Networks (“2024 NNNPS”) does not substantively depart from the 2015 position on road tolls; and
- c. in any event, the Applicant does not consider that the Secretary of State should grant the Council’s request having regard to the relevant planning tests.

2.5 Each of these points is considered below, in turn.

(ii) 2015 NPSNN

2.6 The 2015 NPSNN has effect in relation to the Project for the purposes of section 104 of the Planning Act). This is made clear by the transitional provisions at paragraph 1.16 of the 2024 NNNPS.

2.7 Paragraphs 3.24 and 3.25 of the 2015 NPSNN state as follows, under the headings “*Road tolling and charging – Government policy – Strategic Road Network*”:

“3.24 The Government will consider tolling as a means of funding new road capacity on the Strategic Road Network. New road capacity would include entirely new roads and existing roads where they are transformed by an improvement scheme.

3.25 River and estuarial crossings will normally be funded by tolls or road user charges.”

2.8 The 2015 NPSNN is clear that there is policy support for road tolling and charging being used to fund new road capacity on the Strategic Road Network, including river and estuarial crossings. The Project is consistent with government policy, as confirmed by the Department for Transport (in its

capacity as the proposed charging authority) in its letter dated 8 November 2022 [REP1-184].

2.9 Funding and / or cross-subsidisation of ferry crossings by road tolls / user charges does not fall within the parameters of the above policies. Paragraph 3.24 expressly refers to “*funding new road capacity on the Strategic Road Network*”. It is clear that “*river and estuarial crossings*” referred to in paragraph 3.25 is a reference to road crossings, given the paragraph which precedes it and given the headings of the section of the National Policy Statement under which these policies sit. The Applicant therefore does not consider the Project funding / cross subsidising the ferry to be supported by, or consistent with, the 2015 NPSNN.

2.10 The 2015 NPSNN also sets out at paragraphs 4.9 and 4.10 the tests for when the Secretary of State should consider imposing requirements in relation to a development consent. These are not made out in the case of the Council’s requests, as addressed further in section (iv) below.

(iii) 2024 NNNPS

2.11 The Council correctly notes in its response that based on paragraphs 1.16 and 1.17 of the 2024 NNNPS, the Secretary of State has discretion to consider the 2024 NNNPS an “*important and relevant consideration*” to the Secretary of State’s decision on the application, despite it not being in effect for the purposes of section 104 of the Planning Act 2008:

“1.16 [...] for any application accepted for examination before designation of this revised NPS, the 2015 NPS should have effect in accordance with the terms of that NPS. The revised NPS will therefore have effect only in relation to those applications for development consent accepted for examination after the designation of the revised NPS.

1.17 However, any emerging draft NPSs (or those designated but not having effect) are potentially capable of being important and relevant considerations in the decision-making process. The extent to which they are relevant is a matter for the relevant Secretary of State to consider within the framework of the Planning Act 2008 and with regard to the specific circumstances of each Development Consent Order application.”

2.12 In this context, paragraph 4.79 in the 2024 NNNPS is suggested by the Council as indicating a change from the 2015 NPSNN. Paragraph 4.79 states:

4.79 The government will continue to consider tolling as a means of funding new river and estuarial crossings, especially in locations where a similar route is already tolled.

2.13 The Council argues that the reference to the fact “*that the government will continue to consider tolling as a means of funding new river and estuarial crossings*” constitutes a change in policy because, unlike paragraphs 3.24 and 3.25 of the 2015 NPSNN, it does not mention the Strategic Road Network. The Council concludes that on the updated wording, road tolling may be considered

as a way of funding crossings that do not comprise new road capacity on the Strategic Road Network. As a result, the Council believes that there is policy support for the Secretary of State granting its funding requests.

- 2.14 The Applicant considers this interpretation to be incorrect. The reference to “river and estuarial crossings” should be read as a reference to roads, not ferry services. There is no indication in the 2024 NNNPS or elsewhere, that any change in government policy on this issue was intended (noting that even if that were the case, the 2015 NPSNN would have effect in relation to the Project). Moreover, paragraph 4.79 expressly states that the government will continue to consider tolling as a funding tool for river and estuarial crossings, the clear conclusion being there is no change of policy from the 2015 NPSNN which allowed for road tolling to fund Strategic Road Network capacity specifically.

(iv) No planning justification for LTC funding the Gravesend-Tilbury ferry

- 2.15 The Council appears to take the view that a holistic reading of the National Policy Statements would further support the imposition of commitments in relation to the ferry service. The Applicant considers this to be incorrect.
- 2.16 As mentioned above, the 2015 NPSNN states at paragraphs 4.9 and 4.10 that a Secretary of State should only impose requirements in relation to a development consent where they are “*necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects*”. This requirement is replicated in paragraph 4.11 of the 2024 NNNPS.
- 2.17 The requirements sought by the Council in this case do not meet these tests, therefore the Applicant does not consider it appropriate for them to be imposed. The fact that a measure may, in broad terms, align with an objective of Government does not mean that the tests in relation to the imposition of a requirement for a DCO project, and which are not required by the National Policy Statements, can be imposed.
- 2.18 The Council acknowledges in its [response](#) to the Secretary of State’s 5th consultation that the Gravesend-Tilbury ferry service was discontinued for funding-related reasons. These are separate from the Project. The continuance of that service is not required to mitigate, minimise or otherwise compensate for a matter rising in connection with the Project.
- 2.19 Finally, the Applicant refers to paragraphs 2.22 – 2.27 of its [response](#) to the Secretary of State’s 7th consultation issued on 12 November 2024 for discussion of its role in relation to public transport. The Applicant’s position set out therein applies in this context; and the Applicant’s position remains that it is not appropriate for it to provide funding for new or existing public transport services.
- 2.20 The Project will benefit public transport and provide new cross river route opportunities, and the Applicant’s assessments forecast that the Project would improve journey times for most bus routes in the area. The Applicant proposes

to exempt local public bus services from paying the road user charge, and the Applicant has begun sharing its transport model data with local highway authorities to support journey forecasting and modal comparisons. Although the Applicant's statutory function does not relate to public transport, it is assisting the local authorities and transport operators that are positioned to take decisions about existing and new services in their areas. The Applicant considers that those authorities and operators are able to improve existing services and make any further decisions they consider appropriate for the provision of new services.

- 2.21 The Applicant's response to the Secretary of State dated [12 November 2024](#) also addresses how the Applicant is supporting active travel. Paragraph 2.21 of that response explains the further funding commitments for active travel that the Applicant has put forward after consultation with Active Travel England.
- 2.22 The active travel fund would be available for the Council to make applications to. Whilst any application would need to be considered on its merits, projects of the type referred to by the Council (improved walking and cycling route from the Cascades Leisure Centre, Thong Lane to Gravesend Town Centre that would link Chalk Park and the surrounding area to Gravesend) fall within the intended scope of the fund.
- 2.23 The Applicant notes and welcomes the Council's recognition of the work that National Highways has already funded, via Designated Funds, in relation to exploring improvements to active travel routes within the borough.

(v) Applicant's wider engagement on the Gravesend-Tilbury Ferry

- 2.24 Following the suspension of the Tilbury Ferry service, the Thames Estuary Growth Board established a forum, which aims to find a pathway towards the re-establishment of a permanent ferry crossing between Gravesend and Tilbury. This forum is comprised of a number of interested parties including Gravesham Borough Council, Kent County Council, Thurrock Council, as well as potential ferry operating companies. The Applicant has participated in each of these meetings and offered its assistance within the confines of its remit. The next meeting is due to take place on 12 December 2024 and will be attended by the Applicant.

Owners/operators of Whitecroft Care Home

- 2.25 The Applicant notes the content of Whitecroft Care Home's [response \(dated 19 November 2024\)](#) to the Secretary of State's letter of 12 November 2024. The following paragraphs provide the Applicant's response to the points raised within that submission.
- 2.26 The Care Home's letter states that for the bulk of the promotion the Applicant has refused to acknowledge that the Whitecroft Care Home and its owners would be impacted by the scheme. The Applicant strongly disagrees with this statement. See in particular the Applicant's closing submissions [[REP10-021](#)] at sections 9.8 (noise and vibration) and section 9.9 (population and human

health) for the summary of how the Care Home has been fully considered by the Applicant, with signposting to the relevant submissions.

2.27 Whitecroft Care Home has also raised concerns about the number of visits the Applicant made to the Care Home during development of the Applicant’s proposals. More generally, the Care Home’s letter suggests that the Applicant has failed to satisfactorily engage with the Care Home.

2.28 The Applicant does not agree with these statements. Engagement with the Care Home until the end of the Examination is documented in the Statement of Reasons [REP9-114] submitted at Deadline 9 (pages 1831 to 1834). Engagement since the close of examination is listed in Table 1 below: The Applicant considers that this record demonstrates significant and extensive engagement.

Table 1 Engagement with the Care Home

Date	Nature of Engagement	Detail
2023-12-11	Email	Heads of terms proposed by Runwood’s Agent
2024-02-07	Email	National Highways comments on HoT’s
2024-04-08	In person meeting	Meeting with all parties to give assurance to Runwood of the continued intention of National Highways to purchase Whitecroft and work through some key principles and discuss proposed costs and compensation etc
2024-04-24	Email	Updated HoTs received from Runwood
2024-04-25	Email	Relocation estimate received from Runwood
2024-05-16	Site Visit	Valuation office Agency acting on behalf of National Highways visited the site with a view to advising on a purchase price for the property
2024-09-12	Email	National Highways sent revised HoTs to Runwood – a more simplified version than that proposed by Runwood in April and suggested a further meeting with lawyers present to agree the appropriate mechanism
2024-09-16	Email	Email from Runwood’s Agent detailing concerns in relation to certain proposed terms within the HoTs and no agreement to a further meeting

2024-12-02	Email	National Highways approach to Runwood Directors reattaching HoTs and proposing a meeting to move discussions forward
2024-12-04	Email	Email to Agent seeking acknowledgement on behalf of his client that the emails had been received and requesting a meeting.
2024-12-09	Email	Acknowledgement from the Agent acting for Runwood that they had received our recent correspondence and are prepared to have a meeting. Request for a revised Timetable for the works
2024-12-10	Email	Response from NH confirming that the LTC Delivery Partner will be invited to the meeting to discuss the proposed works timetable

- 2.29 The Applicant has been meeting with the owner of the Care Home since 2017, including meetings at their offices at their request. The Applicant first requested a site visit in 2020, in order to better understand the structure of the building and the internal layout, to be able to support the Applicant’s technical assessments of impact and assess potential mitigations . However, at this time initially due to COVID restrictions, and then ongoing concerns about safely visiting a Care Home during the pandemic and protecting the residents (particularly with the vulnerable nature of the residents) a site visit earlier than 13 June 2023 was not possible.
- 2.30 The Care Home’s letter further states that the Applicant attempted to cancel the Examining Authority’s site visit (14 September 2024). This statement is incorrect. On that day the site visit team did check with the on-site staff to make sure that the Care Home was still content for the site visit to go ahead and to ensure that everything was in place to ensure the safety and wellbeing of the residents. It should be noted the Applicant’s [proposed itinerary](#) for the accompanied site inspections proposed an inspection of the exterior of the Care Home. Following a representation from the Care Home the Applicant prepared an [amended itinerary](#) which included the Care Home, as did the [itinerary](#) adopted by the Examining Authority.
- 2.31 The Applicant has recently requested a further meeting with the Care Home in order to finalise the Heads of Terms for the acquisition by agreement of the site. These Heads of Terms set out that the Applicant is willing to consider appropriate notice periods for the acquisition process to enable the Care Home to try to find an alternative site to relocate. The Heads of Terms further offer reasonable contributions to the costs associated with relocation. The terms of any agreement would be subject to the Applicant being able to progress

construction of its development in a reasonable timeframe should the Development Consent Order be granted by the Secretary of State.

- 2.32 The Care Home have now responded to the Applicant's request for a meeting and a date is currently being agreed.
- 2.33 The Applicant considers that an agreement with the Care Home will be able to be reached and remains committed to pursuing this with the Care Home.
- 2.34 The Applicant would also like to re-state that it considers that the inclusion of the revised wording of Article 30 contained within the Applicant's Draft Development Consent Order provides the appropriate protection for the Care Home should we not be able to reach agreement on terms at the current time.
- 2.35 The Applicant proposed revised wording at Deadline 8 (Annex A.8 of the Applicant's post hearing submissions for ISH14 [[REP8-114](#)]) on a without prejudice basis. The operators of Whitecroft Care Home confirmed in Comments on the final documents submitted by the Applicant at D9 [[REP9A-143](#)] that inclusion of this revised wording would secure the outcome sought (in particular, the confirmation from the owners that *"have reflected on that wording and are satisfied that it would, in practice, achieve the same outcome as the procedural route suggested by the Objectors, namely it would ensure that if the LTC is to proceed, it can only do so by the acquisition of Whitecroft (including the site of the Care Home)"*). Accordingly, the Applicant included this revised wording into the draft DCO submitted in the submission to the Secretary of State on the [23rd May 2024](#). Whilst the Applicant continues to work toward a voluntary agreement, the Secretary of State can be satisfied that an appropriate mechanism exists to ensure the acquisition of the site prior to the works under the DCO being undertaken (should development consent be granted).

3 Updated dDCO

- 3.1 The Applicant has updated the e-mail address used to contact the Project, which is included within the explanatory note within document 3.1 draft Development Consent Order. The new contact address is info@lowerthamescrossing.co.uk, and a revised dDCO (**3.1 Draft Development Consent Order [Rev 19.0]**), is included with this submission to reflect this.

Yours sincerely

Dr Tim Wright

Head of Consents – Lower Thames Crossing