



Meeting note

Project name	Lower Thames Crossing
File reference	TR010032
Status	Final
Author	The Planning Inspectorate
Date	16 September 2021
Meeting with	Highways England (the Applicant)
Venue	Microsoft Teams
Meeting objectives	Project update meeting
Circulation	All attendees

Summary of key points discussed and advice given

The Planning Inspectorate (the Inspectorate) advised that a note of the meeting would be taken and published on its website in accordance with section 51 of the Planning Act 2008 (the PA2008). Any advice given under section 51 would not constitute legal advice upon which applicants (or others) could rely.

What's happened since we last met

The Applicant confirmed that its Community Impacts Consultation has ended. The Applicant reminded that some local authorities are awaiting the outcome of internal governance procedures before submitting their final responses. The Applicant noted that Thurrock Council's (TC) draft response is published on its website.

Programme Update

The Applicant confirmed its anticipated submission date was now into 2022. The Applicant noted it is working on a programme update for resubmission.

Consultation Update

The Applicant confirmed the Community Impacts Consultation ended on 8 September 2021. The Applicant stated it held around 20 events and received steady attendance levels with some events attracting slightly more than others. The Applicant noted it provided deposit locations, webinars and a call back service as part of the consultation.

The Applicant stated its provisional number of responses are 3091 and a high proportion of responses were sent through its website. The Inspectorate queried whether documents such as the Ward Summaries, that had been prepared for this round of consultation, had triggered much interest, feedback, further questions. The Applicant confirmed that it did feel that people had engaged with the Ward Summaries as evidenced by the knowledge and detail of some of those attending certain events.

Feedback discussion on LTC shared Consultation documents

The Applicant had shared copies of the following documents with The Inspectorate:

- Updated dDCO Schedule 2 and draft Explanatory Memorandum
- Updated Code of Construction Practice (including the REAC)
- Design Principles
- Framework Construction Travel Plan
- Outline Traffic Management Plan for Construction
- Outline Materials Handling Plan
- Wider Network Impacts Management and Monitoring Plan (update from the Outline Monitoring Strategy)

The Inspectorate drew attention to its written comments on the above documents, reproduced at the end of this meeting note, and sent to the application via email on 10 September 2021.

The Inspectorate advised the Applicant that the feedback was intended to facilitate clarity and consistency within the proposed Application. The Applicant confirmed it will review the draft document feedback and respond appropriately if it has any comments or queries.

LOWER THAMES CROSSING – TR010032

Section 51 advice regarding draft application documents submitted by Highways England

Highways England requested that the following draft documents be reviewed by the Planning Inspectorate as part of its Pre-application Service¹:

1. Updated dDCO Schedule 2 and draft Explanatory Memorandum
2. Updated Code of Construction Practice (including the REAC)
3. Design Principles
4. Framework Construction Travel Plan
5. Outline Traffic Management Plan for Construction
6. Outline Materials Handling Plan
7. Wider Network Impacts Management and Monitoring Plan (update from the Outline Monitoring Strategy)

The advice recorded in the table comprising this document relates solely to matters raised upon the Planning Inspectorate's review of the draft application documents, and not the merits of the proposal. The advice is limited by the time available for consideration and is raised without prejudice to the acceptance or otherwise, and any subsequent examination of the eventual application. These comments are initial and do not preclude further comments being made on these draft documents.

¹ See <https://infrastructure.planninginspectorate.gov.uk/application-process/pre-application-service-for-applicants/>

Updated DCO Schedule 2 and Explanatory Memorandum (Ex Mem)		
Ref No.	Article/ Requirement/ Schedule	Comment/Question
	General	Highways England are reminded of the advice in para. 15.2 of Advice Note 15 ² that: <i>The law and policy relating to planning conditions, imposed on planning permissions under the TCPA1990, will generally apply when considering Requirements to be imposed in a DCO in relation to the terrestrial elements of a proposed NSIP. Requirements should therefore be precise, enforceable, necessary, relevant to the development, relevant to planning and reasonable in all other respects.</i>
1.1	Requirement 1	<p>The definition of 'commence' has been the subject of discussion in a range of examinations and has been the subject of recommended and approved changes to DCOs. As suggested in PINS advice, it is useful that the rationale for the definition adopted is set out in the Explanatory Memorandum and Applicants should justify elements in the draft DCO with reference to the scheme itself rather than by relying on references to other DCOs.</p> <p>This draft Requirement refers to, for example, 'vegetation clearance', and the Applicant should look to provide particular justification particularly relating to a scheme of this size, complexity and temporary land requirement.</p>

² Advice Note fifteen: *Drafting Development Consent Orders*, July 2018
https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2014/10/advice_note_15_version_1.pdf

Updated DCO Schedule 2 and Explanatory Memorandum (Ex Mem)

Ref No.	Article/ Requirement/ Schedule	Comment/Question
1.2	Requirement 3	<p>The Requirement contains the wording: 'provided that any amendments to those documents showing departures from the preliminary scheme design would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental assessments which will be submitted with the DCO application'.</p> <p>The Applicant should be aware of the advice in respect of 'tailpieces' in a draft DCO (see 17.4 of Advice Note 15).</p> <p>The need for flexibility is recognised but it may be worthwhile considering how may this be best achieved drawing on existing practice. For example, the DCO for A1 Birtley to Coalhouse includes a range of design options (see Work No. 5a) for Allerdene Bridge in the DCO application. At the detailed design stage, the preferred option would be identified and taken forward into construction. This is given as an example and not, necessarily, as a recommendation.</p>
1.3	Requirement 4	<p>Reference is made to the pre-commencement EMP – is this the REAC alone or the EMP (second iteration) or another document? From the information provided the EMP (second iteration) appears to only apply to commencement. Is there a gap between the outline control documents which are to be certified, and the commencement EMP meaning there is a gap in the control of activities at pre-commencement?</p>

Updated DCO Schedule 2 and Explanatory Memorandum (Ex Mem)

Ref No.	Article/ Requirement/ Schedule	Comment/Question
1.4	Requirement 4	<p>Should 'in consultation with' in R4(2) include any requirement for the relevant local planning authority and Natural England to agree the EMP as well as being consulted on it?</p> <p>Is the phrase '... substantially in accordance with ...' sufficiently clear?</p>
1.5	Requirement 5	<p>Should 'in consultation with' in R5 include any requirement for Natural England to agree the LEMP as well as being consulted on it? Is consent/ 'assent' from Natural England for works within SSSIs under Section 28e of the WCA 1981 required? If so, Requirement 5 should also explicitly reflect this and include the need for permission from NE for works within SSSIs to proceed ie the relevant LEMP to be agreed with NE.</p> <p>Is the word 'reflect' in R5 (2)(a) sufficiently clear? Is the phrase '... substantially in accordance with ...' sufficiently clear?</p>
1.6	Requirement 6	<p>Has the Applicant checked whether there are any Local Drainage Boards/Authorities operating in affected areas?</p>
1.7	Requirement 7	<p>Is the term 'suitably qualified and experienced ecologist' sufficiently clear and/or explained?</p>

Updated DCO Schedule 2 and Explanatory Memorandum (Ex Mem)

Ref No.	Article/ Requirement/ Schedule	Comment/Question
1.8	Requirement 8	<p>Should the use of 'in consultation with' in R8 include any requirement for the relevant local planning authority to agree the scheme as well as being consulted on it?</p> <p>Should any other bodies, such as the Environment Agency and/or any local drainage boards be referenced in this requirement?</p>
1.9	Requirement 8	<p>Would 'relevant planning authority' include, for example, the Kent and Essex County Council Archaeological Units?</p>
1.10	Requirement 9	<p>The full title of the Archaeological Mitigation Strategy and Outline Written Scheme of Investigation ("AMS-OWSI") should be included in the Requirement and abbreviated thereafter. Additionally, should this document be added to the "control documents" that are listed in paragraph 1.1.5 of the Explanatory Memorandum, and Article 1 of the dDCO?</p>
1.11	Requirement 10	<p>Should this requirement be titled '<i>Construction</i> Traffic Management'? Is the phrase '... substantially in accordance with ...' sufficiently clear?</p>
1.12	Requirement 11	<p>Is the phrase '... substantially in accordance with ...' sufficiently clear?</p>

Updated DCO Schedule 2 and Explanatory Memorandum (Ex Mem)

Ref No.	Article/ Requirement/ Schedule	Comment/Question
1.13	Requirement 12	The Requirement does not appear to allow for the possibility that Volume 1, Series 0300 of the Manual of Contract Documents for Highway Work may be superseded as guidance on this aspect.
1.14	Requirement 13	To what extent has the detailed wording of this Requirement been discussed with the relevant local planning authority?
1.15	Requirement 14	Should the use of 'following consultation with' in R14 include any requirement for the relevant local planning authority to agree the scheme as well as being consulted on it. Is the phrase '... substantially in accordance with ...' sufficiently clear?
1.16	Requirement 12	Should the "Manual of Contract Documents for Highway Works" be added to the "control documents" that are listed in paragraph 1.1.5 of the Explanatory Memorandum, and Article 1 of the dDCO?
1.17	Requirement 13(4)	Would it be helpful to specify whether the 28 days for the local planning authority to notify the undertaker of its decision on an application is intended to be calendar days or working days? To what extent has this been discussed with the relevant local authority/ies?
1.18	General observation on requirements	It is worth considering how the timings expressed in the various control documents are reflected and whether this information should be included explicitly.

Updated DCO Schedule 2 and Explanatory Memorandum (Ex Mem)		
Ref No.	Article/ Requirement/ Schedule	Comment/Question
1.19	Paragraph 1.1.2 of Ex Mem	Suggest: <i>Schedule 2 to the Order sets out the "requirements" that Highways England would and must comply with if the Order is approved.</i>
1.20	Paragraph 1.1.4 of Ex Mem	The reason for including paragraph 1.1.4 of the Explanatory Memorandum is understood but it could be taken to detract from the unique nature of this scheme and Highways England should bear in mind paragraph 2.14 of Advice Note 13 (our underlining) that: <i>If a draft DCO includes wording derived from other made DCOs, this should be explained in the Explanatory Memorandum. <u>The Explanatory Memorandum should explain why that particular wording is relevant to the proposed draft DCO, for example detailing what is factually similar for both the relevant consented NSIP and the Proposed Development.</u></i>
1.21	Paragraph 1.1.5 of Ex Mem	Is this the list of documents to be specified and secured elsewhere in Schedule 16 of the dDCO? It does not fully accord with the documents defined in Requirement 1. Is this list complete; it does not contain reference to, for example, the general arrangements drawings (R3).
1.22	Paragraph 1.1.7 of Ex Mem	Has the approach to identifying a discharging authority been sufficiently justified in respect of this particular scheme?

Updated Code of Construction Practice (including the REAC)		
Ref No.	Paragraph/ Section	Comment/Question
2.1	General	S51 advice feedback: noted that the document was light on detail and did not contain the REAC. More detail has been added including specific activities within the REAC. No further comments on this.
2.2	Plate 2.1	Some clarity would be helpful to understand the linkages between all the documents and commitments mentioned: Plate 2.1 does show the management plan documents and commitments but does not explain how they will work together and inform each other, as has been done in the other documents reviewed.
2.3	Section 3.1	<p>Timing – the project has a 6-year construction programme but it isn't clear how the tasks included in the CoCP and REAC will be timed to allow pre-commencement works to take place e.g. habitat creation and planting? It would be useful to have an indication of how long each phase is likely to last, for example: how long will pre-commencement monitoring be carried out for; or how will replacement habitats be established before removal of habitats or features (e.g. bat roosts)?</p> <p>The list of pre-commencement activities in Table 3.1 doesn't appear to allow for establishing a monitoring baseline for, for example, noise / air quality / water quality. What time is being allowed for this and where in the documents will the methodologies for these activities be set out?</p>
2.4	General	How will the various controls in place allow for flexibility for contractors to make necessary changes to licences and consents when they are appointed and begin works?

Updated Code of Construction Practice (including the REAC)		
Ref No.	Paragraph/ Section	Comment/Question
2.5	General	There is a clear description of the various monitoring responsibilities and feedback routes proposed; the potential consents are listed in section 4.4. However, there is less detail in this section as to how any non-compliances will be addressed and how any changes to consents or licences (indicated in the REAC Table 7.1) post DCO consent will be managed and controlled. It would be helpful to provide more assurances in this regard.
2.6	Section 4.3	Roles and responsibilities: there is a clear hierarchy of roles that the main contractors would be obliged to provide in implementing the CoCP presented. Less clear is the link between the sub-contractors, HE and reporting to LAs and other stakeholders. How will HE monitor the compliance and performance of its contractors and report where necessary to SoS?
2.7	Section 4.4	We have not seen the Consents and Agreements Position Statement but note that consent for works within the SSSIs affected by the proposed development is not listed in Table 4.2. Have there been any discussions with Natural England on this subject and what have the outcomes been to date?

Design Principles		
Ref No.	Paragraph/ Section	Comment/Question
3.1	1.1.8, Tables 4.3 – 4.9	The design principles document is part of the suite of documents that capture the environmental commitments, which includes the ES, Environmental Masterplan, REAC and CoCP. Could paragraph 1.1.8 usefully mirror that the REAC is now part of the CoCP?

Design Principles		
Ref No.	Paragraph/ Section	Comment/Question
		The detailed tables for each section of the scheme refer to the Environmental Masterplan and sheet numbers. It would be helpful if details of specific DCO requirements could also be included and specific references to the REAC where applicable.
3.2	2.1.3, Table 3.2	<p>Section 2 on the subject of 'connecting places' does not discuss connectivity between the ecological and other environmental enhancements proposed. Does this form a key part of this design principle?</p> <p>The principles contain wording such as 'as reasonably practicable'. Could this project look to have ambitious, strong principles, to flow through to firm realistic commitments to be delivered in the design (which the rest of the document does seem to reflect).</p>

Framework Construction Travel Plan		
Ref No.	Paragraph/ Section	Comment/Question
4.1	Section 4, Paragraph 4.2.3	This section usefully explains how the governance and compliance will work. Will the contractors'/subcontractors' Joint Operations Forum (JOF) report to the Transport Plan Manager or TPC and how will it feed back into the SSTEP process? The Traffic Management Plan introduces a 'traffic forum' – does this group fit into the FCTP governance?
4.2	Plate 4.1 and	Might there be any benefit in combining these diagrams to help set out the relationships between the

Framework Construction Travel Plan		
Ref No.	Paragraph/ Section	Comment/Question
	4.2	various roles and responsibilities?
4.3	Section 2, Paragraph 2.3.4	The description of how the control documents at application and beyond into construction and operation is useful here. With regards to Paragraph 2.3.4, is there a relationship between the FCTP and the NRA as well?
4.4	Section 6	It is helpful to have a summary in the document to provide context for the assumptions made and targets set, but it would be useful to avoid any repetition between this document and the ES and Transport Assessment and use cross-referencing where possible.
4.5	Section 7	The NPS for Ports is not mentioned here, might there be benefit in including a section on relevance/consideration?
4.6	Paragraph 9.4.1	This paragraph states that the measures set out are to be secured by DCO requirement but does not make any specific reference - presumably this is to fall under the details of Requirement 11 in Schedule 2 of the dDCO?
4.7	Table 10.1	We welcome the identification of responsibilities and indicated timescales for governance and approval tasks in this table, and suggest reference is made to this in Section 4 if not already done so.
4.8	Section 1.4	Is there sufficient detail regarding what the remedial measures to address target shortfalls might be and might it be helpful to give some examples in this document. Is there an intention to instigate a complaints procedure or similar (noting the proposed Communications and Engagement Strategy in the oTMPfC

Framework Construction Travel Plan		
Ref No.	Paragraph/ Section	Comment/Question
		below) and if so would there be a feedback link from this into the review and monitoring of the travel plans (e.g. if residents had noted issues associated with or perceived to be associated with construction staff transport)?

Outline Traffic Management Plan for Construction		
Ref No.	Paragraph/ Section	Comment/Question
5.1	Section 3.3	Noting the intention to make a line of contact for the public available, how do you envisage this feeding into the groups overseeing traffic management e.g. the Traffic Management Forum and Joint Operations Forum – will there be a connection between the public line of contact and the Traffic Manager who will be co-ordinating with these groups?
5.2	Plate 3.2	Noting the intention for feedback to the Community Liaison Group by the Traffic Manager, how wide will the outgoing information be shared and how? We note the information on Communication and community engagement in the CoCP, might it be helpful to include a cross-reference?

Outline Materials Handling Plan		
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Ref No.	Paragraph/ Section	Comment/Question
6.1	Section 3.2	This section identifies known constraints which have led to the exclusion of some options for the transportation of materials, e.g. the mitigation area associated with Port of Tilbury 2 which precludes a direct rail spur to the North Portal and the barriers to use of the Thames for transport to the southern working area due to the Milton Rifle Range. Section 1 lists the relevant documents including documents supporting the ES. Might it be helpful to include a cross reference in Section 3.2 to any more detailed assessment within these documents (or others) that underpins these decisions e.g. assessment of the benefits of a direct rail spur vs the disbenefits meaning it has been deemed disproportionate.
6.2	Plate 3.2	This plate shows existing infrastructure to the immediate north of the River Thames but there are no figures showing the extent of the proposed development further to the north. Is there an intention to include this information where it is of relevance to the oMHP?
6.3	Section 5.3, Section 7.2	The document contains useful information about the strategy for river use and the options considered, but no estimates/assumptions of how much transportation will be done by river. Are the assumptions on which the environmental and navigational assessments are based contained elsewhere? It may be useful to include a cross-reference to this information.
6.4	Paragraph 7.2.37	The use of conveyors to move material within the Order Limits – it is noted that this is still under consideration and will be explored as part of the Materials Handling Plan post consent. Does the project description within the dDCO and as assessed by the ES and other supporting documents allow for this project element?

Wider Network Impacts Management and Monitoring Plan (update from the Outline Monitoring Strategy)

Ref No.	Paragraph/ Section	Comment/Question
7.1	Table 2.1	Is there any information at this stage on how any interventions proposed to be delivered prior to construction will be phased and how this would fit with other pre-construction works? Would any interventions fall within the definition of 'pre-commencement works' and be described in the dDCO in this regard? Is there potential for any interventions that are subsequently adopted/agreed to change the project description to be secured in Schedule 1 of the DCO and which has formed the basis of the environmental assessments?
7.2	Paragraph 2.3.6	We note the statement here that the need and timelines for these interventions are to be managed separately from the proposed development. Does the Applicant consider that any of these interventions could fall under the definition of Associated Development, as set out in s115 PA 2008?
7.3	Plate 3.1, Paragraph 3.2.5, 3.2.6	<p>There is limited detail about how other influencing factors will be considered or what the conclusion of 'largely a result of' will be based on. The Plate has 'investigate the <i>need</i> for localised intervention' whether the text is drafted as 'investigate <i>suitability</i> for intervention'. It would seem that if a significant adverse change has been identified and attributed to the proposed development, then the <i>need</i> for intervention has already been established, and it is the <i>suitability and feasibility</i> of intervention that is to be investigated.</p> <p>The Management and Monitoring Plan needs to deliver intervention where possible, if adverse effects result, in order to fulfil its purpose. Is the investigation process robust and well-articulated and does it provide a defined outcome that will lead to action?</p>