

# Meeting note

<b>Project name</b>	Lower Thames Crossing (LTC)
<b>File reference</b>	TR010032
<b>Status</b>	<b>Final</b>
<b>Author</b>	The Planning Inspectorate
<b>Date</b>	27 January 2022
<b>Meeting with</b>	National Highways
<b>Venue</b>	Microsoft Teams
<b>Meeting objectives</b>	Project update
<b>Circulation</b>	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.

### *Programme Update*

National Highways (the Applicant) proposes to conduct its Local Refinement Consultation from 24 March to 22 April, with a view to submitting a Development Consent Order (DCO) application in Autumn 2022.

### *What has happened since we last met?*

The Applicant noted ongoing correspondence with a range of stakeholders. The Applicant noted that, following discussions with the Port of Tilbury, Tilbury Link Road and Thurrock County Council, engineering works and broader scheme design have changed, particularly around Tilbury and Tilbury Fields. The Applicant aims to have a consolidated proposal for its consultation.

The Inspectorate referred to the Secretary of State for Business, Energy and Industrial Strategy's decision to refuse the application for a DCO to build the proposed Aquind electricity interconnector. The Applicant is having regard to any relevant parts of this decision.

There was a discussion on the recent announcement by the Department of Transport concerning Government pausing of smart motorway schemes. The Applicant noted that this is not an issue for the LTC. It added that the proposed development uses some technology which is used on smart motorways, such as vehicle detection technology. The Inspectorate noted that the LTC proposals did not contain smart motorway elements but were recognising that the announcement may impact on the wider network.

Both parties discussed the proposed London Resort and its potential impact on LTC. National Highways noted that, at present, London Resort is excluded from their traffic modelling due to the uncertainty.

## ***Habitats Regulations Assessment (HRA) update***

### ***Proposed HRA submission format/content***

The Applicant proposes a single HRA report to inform an appropriate assessment, which includes a screening assessment. The report will include an appended Evidence Plan which details how the Applicant got to where they are, including an iteration of its methodology and interpretations. The Applicant added that “nugatory” terminology has been replaced with professional judgement on whether the impact is inconsequential. The Applicant believes this new format should be more concise. The Applicant stated that all rationales and conclusions will be reported clearly in sequential stages of the HRA.

The Applicant confirmed that agreement with Natural England has been documented throughout the HRA – with the Statement of Common Ground (SoCG) defining issues yet to be agreed.

### ***Amendments to HRA in light of Section 51 letter from Planning Inspectorate***

In responding to Inspectorate feedback, the Applicant has included the following:

- Further explanation and definition of the rationale used for various conclusions;
- Further information on in-combination assessment for all conclusions at each stage of the assessment;
- Further clarity on where the use of professional judgement has been used in the absence of available quantifiable evidence – including where professional judgement has been agreed with Natural England;
- Significantly more conclusions agreed with Natural England. All screening conclusions are now agreed, except Air Quality on one Special Area of Conservation (SAC), and;
- Updated Screening and Appropriate Assessment matrices with additional detail and cross referencing to the report itself.

### ***Consultation with Natural England***

The Applicant believes it has engaged extensively with Natural England, consisting of weekly catch-up calls, fortnightly calls with project officers and specialists, and monthly calls with area managers to ensure the consultation is running as intended. The Applicant has engaged in several workshops with specialists on specific issues such as air quality effects. National Highways added that it has shared technical notes and draft documentation/specific text that will be included in the HRA or Outline Environmental Management Plan (OLEMP) with Natural England, to facilitate agreement on issues that have been under discussion.

The Applicant has sought advice on each conclusion in the HRA from Natural England, with specific advice sought on: amendments to scoping and screening conclusions; the use of in consequence terminology; air quality assessment including its approach to mitigation and compensation; and sufficiency of additional mitigation and compensation

proposals. Furthermore, the Applicant and Natural England have been discussing securing mechanisms and Natural England input post-consent.

The Applicant considers that it has had due regard to Natural England's advice, incorporating it into assessments and the HRA report, and providing a narrative in the Evidence Plan appendix.

### ***Common ground with Natural England***

The Applicant noted that all screening conclusions have been agreed with Natural England, except air quality effects on one SAC. The Applicant explained that this is due to changes to air quality modelling methodology and the subsequent screening out of North Downs Woodlands SAC. National Highways expect this to be agreed in due course once Natural England have been fully briefed on the Applicant's methodology.

The Inspectorate queried whether the recent 2021 JNCC advice on the use of thresholds for assessment of air quality effects had been considered. The Applicant has used the LA 105 thresholds and is having discussions on the implications of the JNCC advice. There was a discussion on threshold applicability in regard to air quality and the HRA.

The Applicant noted that all appropriate assessment conclusions had been agreed with Natural England other than operational air quality effects. It added that a small number of appropriate assessment conclusions had been agreed with caveats. For example, the agreement of no adverse effect on the Thames Estuary and Marshes SPA/Ramsar from land take and disturbance is dependent on demonstration that habitat creation mitigation measures are achievable. The Applicant is preparing a technical paper on this issue that is expected to resolve this issue with Natural England.

### ***Issues still under discussion with Natural England***

The Applicant is consulting on comprehensive reassessment and mitigation and compensation approach for air quality effects in the HRA and Environmental Impact Assessment (EIA).

Other non-HRA issues under discussion with Natural England include Tilbury Fields, Green bridges, common land, and invertebrates. The Applicant added that these issues are discussed on a regular basis through the SoCG process.

### ***Expected timescales of agreements with Natural England***

The Applicant noted that the majority of issues are expected to be agreed prior to submission. The SoCG will set out expectation of agreement with Natural England within the timescale of Examination (if not fully agreed by submission).

The Applicant added that there is unlikely to be agreement on the need for mitigation for air quality on Epping Forest SAC by submission. It believes that there would be no adverse effects on Epping Forest. Natural England do not agree with this stance, and the Applicant's solution is to submit a 'without prejudice' mitigation measure of a speed limit for four years on the M25 adjacent to Epping Forest. National Highways and Natural England agree this would prevent the exceedance of air quality thresholds.

### ***Air Quality Assessment – Update***

The Applicant explained that the air quality assessment, including the Affected Road Network has been subject to updates with respect to: traffic data, design assumptions, vehicle emission factors and modelling methodology.

### ***Air Quality Assessment – Key change***

The Applicant noted that, in terms of HRA and ecology impacts, the significant change is the inclusion of the Ammonia (NH<sub>3</sub>) in the assessment following representations from Natural England. The Applicant added that, as there are no Government-issued factors for the assessment of ammonia, National Highways have had to develop a bespoke tool following a third-party review of all the available information, including other consultants' tools, emissions factors collected in the UK and Europe and vehicle emission testing undertaken by National Highways. The ammonia component increases the change in Nitrogen deposition that is predicted from the air quality modelling and passed to the ecologists to inform the judgement of impacts and significance on ecological receptors. National Highways added that its assessment is consistent with the requirements of DMRB LA105.

The Inspectorate asked whether there was agreement with Natural England on the methodology for predicting air quality changes and resulting effects on ecological sites. The Applicant confirmed agreement due to the inclusion of ammonia within the methodology.

### ***Air Quality Assessment – HRA***

In regard to screening for likely significant effects, Epping Forest SAC is the only HRA site to be 'screened in', and North Downs Woodlands SAC has been 'screened out' in the latest air quality assessment.

The Applicant's assessment in relation to Epping Forest SAC has identified that while nitrogen deposition thresholds are predicted to be exceeded, in its professional judgement it is unlikely to have an adverse effect on integrity (AEoI) on the SAC. The Applicant added that Natural England disagree that without mitigation adverse effects on integrity can be discounted.

The Applicant noted that numerous potential options for mitigation of the impact have been investigated, due to the disagreement on AEoI with Natural England. A speed limit reduction from 70 mph to 60 mph on the M25 on the section adjacent to the SAC for four years is proposed 'without prejudice' if the competent authority considers it necessary to avoid the threshold exceedance. The Applicant emphasised that it did not consider this measure necessary, but wanted to show how adverse impacts could be avoided if the competent authority disagreed, without the need for proceeding with a "without prejudice" derogations case.

The Inspectorate asked the Applicant if other options for mitigation had been considered. The Applicant added that it has assessed all potential mitigation options and has presented the alternatives to Natural England. It noted that a speed limit for 4 years is the only viable option (assuming the Secretary of State found there was an adverse

impact). The Inspectorate advised the Applicant to clearly set this out and explain within the documentation so that Interested Parties can understand the implications of speed restrictions and the various mitigation alternatives that have been discounted as not suitable or achievable and the reasons why.

### ***Air Quality Assessment – EIA***

The Applicant noted that DCO version 1.0 concluded no significant effects in the Environmental Statement, however, due to the latest information, Natural England advice and changes in industry best practice, the Applicant now identifies approximately 130 designated sites/habitats requiring 'further assessment' due to exceedances of Nitrogen deposition thresholds, and, it concludes that this will result in significant effects on approximately 60 designated sites due to the potential for degradation of habitat condition.

Furthermore, the Applicant's preliminary results conclude approximately 230 hectares (ha) of habitat to be significantly affected. The Applicant added that the air quality assessment is ongoing in light of further survey, remodelled traffic and air quality and feasible mitigation, and that the number of sites impacted may change as a result.

The Applicant has investigated numerous potential mitigation options. A speed limit enforcement on one section of the M2 is being assessed for feasibility and will be proposed if necessary.

The Applicant proposes compensation where mitigation cannot be achieved. This includes habitat creation in which nine plots totalling approximately 312ha will be taken forward to public consultation. The Applicant noted that approximately 250ha of this are to be proposed in the DCO submission.

The Applicant is also considering the use of a fund for managing existing designated sites. The objectives of the fund are being developed to focus on Sites of Special Scientific Interest (SSSI) and priority sites to improve their condition and increase resilience to any potential damage that may occur due to Nitrogen.

The Inspectorate queried how the Applicant intends to reflect the compensation (i.e. - habitat creation) within the DCO. The Applicant noted that securing mechanisms will be discussed in the OLEMP, including details on the timeframe.

### ***Consultation Strategy update – Local Refinement Consultation***

The Applicant noted that the Local Refinement Consultation is more focussed in comparison to its 2021 Community Impacts Consultation.

The Applicant proposes a 4-week non-statutory consultation period from the 24 March 2022 to the 22 April 2022. The Consultation will be more locally focused, and would cover local refinements in respect of: Tilbury Fields, additional environmental mitigation and habitat creation, Walking, Cycling and Horse-riding (WHC) changes, A13 new slip road and landscaping changes, and utilities changes. The consultation pack will include a guide to consultation, three map books, a response form, and an Easy Read version.

The Applicant's non-statutory Statement of Community Consultation (SoCC) was currently with Local Authorities for review.

The Applicant noted that the Consultation extends over Easter and the pre-election period for Thurrock, Brentwood, Havering and Maidstone. It added that some authorities are strongly opposed to holding the consultation during the pre-election period.

The Applicant explained that due to the inclusion of additional new habitat creation into the proposals, the following local authorities will now be consulted under the Planning Act 2008: Maidstone and Tonbridge and Malling Borough Councils as host authorities and Ashford Borough Council, Tunbridge Wells Borough Council and Sevenoaks District Council as neighbouring authorities.

### ***Interrelationship Document***

The Inspectorate noted that the Applicant's Interrelationship Document was a useful document, noting that including the DCO boundary on the plates could be helpful for the reader. The Inspectorate suggested there might be potential to simplify the proposed layout of operational interactions.

The Inspectorate queried if the document would be modified in line with changes to the projects it covers. The Applicant confirmed it would be updated as information came forward during the examination. The Inspectorate also advised the Applicant to include the assumptions underpinning the sensitivity approach to determining which projects were excluded from the traffic model. The Applicant noted that the inclusion of developments would be in accordance Web TAG.