

20 September 2021		ITEM: 5
Lower Thames Crossing Task Force		
Lower Thames Crossing (LTC) – Consultation Response		
Wards and communities affected: All	Key Decision: Key	
Report of: Colin Black, Interim Assistant Director, Regeneration and Place Delivery		
Accountable Assistant Director: Colin Black, Interim Assistant Director, Regeneration and Place Delivery		
Accountable Director: Sean Clark, Corporate Director of Resources and Place Delivery		
This report is Public		

Executive Summary

The Lower Thames Crossing (LTC) is a proposed highway scheme, approximately 14.3 miles (23 km) long, connecting the existing road network from the A2/M2, south-east of Gravesend, to the M25, to the north of North Ockendon. The scheme incorporates two 2.6-mile (4.3 km) tunnels under the River Thames and associated modifications to the M25, A2 and A13, and free-flowing charging systems.

This report sets out the draft response of the Council to the non-statutory consultation from National Highways (previously known as Highways England, and heretofore referred to as HE) on the proposals for the Lower Thames Crossing (LTC) which commenced on 14 July 2021.

Members will recall that in April 2017, the preferred route for the proposed LTC was announced. Since then, a number of consultations have been undertaken. At the end of 2018, HE presented its 'Statutory Consultation Scheme' for the proposed LTC. A series of design changes was the subject of a Supplementary Consultation exercise which ended in April 2020 and then, a further round of Design Refinement was the subject of non-statutory consultation, undertaken virtually, from 14 July to 12 August 2020.

HE made its submission of DCOv1 in October 2020 and subsequently, following discussions with PINS, withdrew the DCOv1 application in November 2020. Now, a further round of Community Impacts Consultation is being held, ending 8 September 2021.

The Council has been clear in its unanimous objections to the LTC, setting up the cross-party LTC Taskforce, including resident and business representation, and has continued to raise objections to the proposals. The Council has also been actively working with stakeholders in sharing its concerns about the proposal including no discernible benefits for Thurrock or the surrounding South Essex areas.

A Summary Review of Community Impacts Consultation has been prepared for Thurrock Council (the Council) to provide a review of the material presented as part of the Community Impacts Consultation exercise. Its purpose is to identify areas of concern, potentially significant issues and identify areas of further work required to be carried out by HE in order to allow the scheme to be properly and proportionately assessed, prior to DCO re-submission.

This 'Summary Review' sets out in summary all the Council's concerns. The key issues dealt with by the Summary Review are:

- i. Confirmation of the Council's constructive objection to the scheme;
- ii. The serious deficiencies of the Community Impacts Consultation;
- iii. The substantial concerns about the lack of performance of the scheme against national and strategic policies as well as HE's 7 scheme objectives.
- iv. Concerns about the adequacy of the transport modelling of the scheme, and the inadequacy of the current level of appraisal of alternatives for the route north of the Thames in the context of the scheme's substantial impact on the communities of Thurrock, in the context of the importance attached to this in the DCO process and recent legal judgements on this issue;
- v. The lack of provision for, and inconsistency with, the housing and development potential for Thurrock as anticipated in the emerging Local Plan, at Thames Freeport and across the wider South Essex area, in the context of its own policy to support and facilitate economic growth as anticipated in the emerging Local Plan and Thames Freeport proposals;
- vi. The responsibility that HE shoulders to present the evidence underpinning its appraisal of alternatives to demonstrate that the substantial impacts on Thurrock have been considered and the optimum scheme identified. Without this evidence, the Council is not able to make judgements about the proposed scheme configuration:
- vii. The requirement for confirmation of HE's support for, and proposals to deliver additional junctions at Tilbury, South Ockendon; the Tilbury Loop Line Overbridge and approach roads; wider network improvements, public transport provision and the provision of more and better WCH facilities. These are considered necessary to mitigate the impacts of LTC on the local highway network and avoid LTC hampering future sustainable growth in Thurrock;

- viii. The need for mitigation on the local highway network at key locations, including the Orsett Cock, Manorway, Daneholes and Asda roundabouts and several other key locations.
- ix. The lack of secured benefits for existing communities and future growth in Thurrock, which should include investment in delivery of a practicable local benefits strategy, facilitation of a local regeneration legacy, provision of open space, improved local connectivity, improvements to Public Rights of Way and facilitation of movement by active travel. Despite some 9 months of continued and focussed technical discussions, very few of the 58 measures set out in the Hatch Report have been agreed;
- x. The unacceptable impacts that the LTC construction will create over a period of 6-8 years of construction that will require serious mitigation, and the further work on construction traffic modelling and specification of plans for construction traffic, employee travel and materials handling, to ensure that effects on local communities are minimised;
- xi. The lack of substantive reference to the implications of the LTC scheme to transport decarbonisation or the HE Net Zero Highways Plan, or how the scheme might need to be adapted to respond to this challenge or to become an enabler of transport decarbonisation and green growth in the Thames Estuary;
- xii. The Council's concern about the lack of adequate provision for emergency services within the LTC scheme or any securing mechanism for its provision, especially relating to the lack of detail and absence of measures to support the emergency services and safety partners;
- xiii. The Council's substantive concerns regarding proposed utilities diversions relating to the extent of land-take required and likely impacts on communities and existing infrastructure, including in terms of disruption and safety;
- xiv. The need for Thurrock Council to have a leading role in the discharge of DCO Requirements, as Local Authorities do in most DCO applications, excepting those currently by HE;
- xv. The lack of progress made on property and compensation matters, both relating to compensation and mitigation for local resident and businesses, and in relation to the Council's own land interests.

Accompanying the Summary Review is a series of technical Appendices that set out in greater detail the Council's response to: i) Draft technical 'control' documents; ii) Summary comments on the Council's land interests; iii) Summary Comments on HE's non statutory compensation policy; and, iv) Summary Comments on the HE review of utility diversion impacts for the additional utility NSIPs. All these documents have been reviewed by Council officers and consultant specialists. Together they represent a summary of the Council's views on the consultation materials.

1. Recommendation(s):

That the Task Force recommends the Council:

- 1.1 Maintains its opposition to the Lower Thames Crossing in Thurrock and pursuant to Section 42 (1)(b) of the Planning Act 2008 and objects in principle to the proposed scheme;**
- 1.2 Agrees the consultation responses set out in Appendix A (Summary Review of Community Impacts Consultation) and B (Appendices A - K) and that these should be submitted to HE by 6 October 2021¹;**
- 1.3 Agrees to delegate authority to the Chief Executive and Corporate Director Resources and Place Delivery, in consultation with Group Leaders, Portfolio Holder for Regeneration and Chair of the LTC Task Force to make any final, minor changes to the consultation response which may arise during the consideration of the consultation response by Council on the night;**

2. Introduction and Background

- 2.1 HE will be re-applying for a Development Consent Order (DCO) to construct and operate the Lower Thames Crossing (LTC). It should be noted that the LTC route (and its Order Limits) through Thurrock accounts for approximately 9% of the land area of the Borough and Thurrock would accommodate approximately three quarters of the linear route (i.e. approximately 14 kms of its full 18.75kms) above-ground route (4,25kms is in tunnel).
- 2.2 The scheme is classified as a Nationally Significant Infrastructure Project (NSIP) therefore consent will be sought via a Development Consent Order (DCO) under the Planning Act 2008 (PA 2008) and the Planning Inspectorate (PINS) will consider the application on behalf of the Secretary of State for Transport. HE's programme is to submit to the DCO application in Autumn 2021.
- 2.3 At the end of 2018, HE presented its 'Statutory Consultation Scheme' for the proposed LTC. A series of design changes was the subject of a Supplementary Consultation exercise which ended in April 2020 and then, a further round of Design Refinement was the subject of non-statutory consultation, undertaken virtually, from 14 July to 12 August 2020. Then, HE made its submission of DCOv1 in October 2020 and subsequently, following discussions with PINS, withdrew the DCOv1 application in November 2020.
- 2.4 Now, a further round of Community Impacts Consultation is being held from 14 July to 8 September 2021, it was undertaken virtually and at in-person events following the pandemic. HE made its submission of its first DCO

¹ In response to a joint local authority letter raising concern about the length of the consultation period over the summer holiday, HE have confirmed a 4 week extension for the Thurrock Council response which is now due on 6th October 2021. HE have requested that a draft response is provided in advance, noting that papers for Council will be published on 14th September.

(DCOV1) in October 2020 and subsequently, following discussions with PINS, withdrew DCOV1 application in November 2020. A further round of Community Impacts Consultation was held from 14 July to 8 September 2021. It was undertaken virtually and at in-person events in response to the Covid-19 pandemic and comments from the Planning Inspectorate (PINS).

- 2.5 A Summary Review of Community Impacts Consultation has been prepared for Thurrock Council (the Council) to provide a review of the material presented as part of the Community Impacts Consultation exercise. Its purpose is to identify areas of concern, potentially significant issues and identify areas of further work required to be carried out by HE in order to allow the scheme to be properly and proportionately assessed, prior to DCO re-submission.
- 2.6 Overall, the Council has continued actively to engage with HE. However, based upon the consultation materials available, the information presented by HE is protracted, repetitive, complex and often missing key data. It is not supported by evidence that is required for stakeholders, including the Council, to provide an informed response to the proposed design and the wider scheme. The assertions within the Ward Impact Summaries are often misleading by intimating that all impacts are to be mitigated by the proposals currently being put forward by HE.
- 2.7 Progress by HE on the traffic modelling, air quality and noise assessments and environmental and health impact assessment work has continued to be slow. The result of this is that the Council's ability to engage with HE on the technical analysis of potential effects of the scheme has been relatively unproductive. Consequently, it has not been possible to appropriately evaluate the effectiveness of any mitigation proposals, prior to the planned submission of the DCO application later this year. The Council contend that, due to this lack of information, a fully informed consultation response is not possible and it reserves its right to comment further once this vital information is both available and has been assessed.
- 2.8 The 'Summary Review sets out in summary all the Council's concerns. Accompanying this, are a series of technical Appendices that set out in greater detail the Council's response to: Draft technical 'control' documents; Summary comments on the Council's land interests; Summary Comments on HE's non statutory compensation policy; and, Summary Comments on the HE review of utility diversion impacts for the additional utility NSIPs. All these documents have been reviewed by Council officers and consultant specialists. Together they represent a summary of the Council's views on the consultation materials.
- 2.9 The Council's comments in the following Main Report and Appendices have been restricted to the following three reasons to comment, in order to meet the requirements of the Consultation:

- i. Comments that arise directly from the Consultation documents (Technical or Core documents) and which can be traced back to the relevant Appendix.
- ii. Missing information and data that has not been included in any of the Consultation documents that are significant enough to draw attention to.
- iii. Comments that have been made by the Council in previous consultations and which have not been dealt with either in this consultation or so far more broadly.

3. Issues, Options and Analysis of Options

The Summary Review is contained in Appendix A, and summarises all the Council's concerns. These are summarized below:

THE COUNCIL'S OVERALL POSITION ON LTC:

- 3.1 As with the three previous rounds of public consultation, the Council's position is one of objection in principle to the LTC scheme as it gives rise to substantial harm to the Borough. This position is unlikely to change as a result of the current proposal, which currently delivers very little benefit for local people and does not deliver on HE's own scheme objectives 'to support sustainable local development and regional economic growth in the medium to long term' or to 'minimise adverse impacts on health and the environment'.
- 3.2 The Council continues to engage with HE in order to fulfil its statutory obligations and to protect the interests of the Borough. This is important in order to comply with PINS Advice Note Two: *The role of local authorities in the development consent order process*². With this in mind, the Council continues to have a Planning Performance Agreement (PPA) in place with HE, which will provide some financial support for resources needed to respond and engage with HE on technical matters. This aligns with the Council's usual practice for major development applications within the Borough.
- 3.3 The Council has consistently set out in its three consultation responses its key issues with the scheme and in February 2021 the Council published its Hatch Report entitled 'LTC Mitigation Benefits', which set out in some detail the 58 mitigation, avoidance and compensation measures it required should the scheme proceed.
- 3.4 The Council has continued to engage with HE to achieve the measures identified in the Hatch Report through the DCO securing mechanisms and other means, which necessarily will involve much discussion and some compromise. Clearly, HE will want to achieve an improved level of support

² This states at paragraph 6.2 "*Local authorities should engage proactively with a developer even if they disagree with the proposal in principle... Local authorities are not undermining an 'in principle' objection to a scheme by engaging with a developer at the pre-application stage*".

from the main host local authority prior to the Examination. The Council will maintain its opposition, whilst negotiating these measures and other scheme improvements, without compromising this overall position.

- 3.5 The Council's constructive opposition is to details of the proposed route as set out below in more detail, not necessarily opposition to the principle of a further Thames crossing, recognising this does not alter the 'in principle opposition' stance.

SUMMARY OF THE COUNCIL'S KEY ISSUES

- 3.6 The Council has now responded to three previous consultations and offered Executive Summaries of its key issues. The following sets out the Council's current key issues. These issues are in response to this Consultation, whilst recognising missing information (deficiencies and omissions) and issues that have not previously been responded to adequately by HE. The following narrative broadly follows the sequential sections of the Summary Review report (Sections 2.1 – 2.19 and Section 3), contained in Appendix A, but does not include summaries of the accompanying Appendices, contained in Appendix B, which deal with matters of technical detail.

CONSULTATION & POLICY

- 3.7 In terms of the practicalities of the Community Impact Consultation, the Council contend that the timing over the summer months (especially after an 18-month pandemic), the 8-week length, the volume of documents and the accessibility of the materials and process were inappropriate and inadequate. Furthermore, whilst the number of technical meetings, topics covered and meeting notes during 2021 may suggest meaningful technical engagement, it was not. This is because;

- i. Some technical documents were issued by HE for comments late;
- ii. Very few issues have yet been resolved or agreed;
- iii. There has been limited responses from HE on key Council reviews; and
- iv. There is critical information missing from the consultation (traffic modelling data, updated air quality and noise assessments and details of updated health impacts and mitigations).

- 3.8 In summary, there were many deficiencies and omissions within DCOv1 identified by PINS and some of these plus many others are still not part of this consultation.

- 3.9 As detailed in all previous consultation responses to the LTC scheme, the Council continues to have substantial concerns about the lack of performance of the scheme against national and strategic policies as well as HE's 7 scheme objectives. The Council maintains particular concern relating to the inadequacy of alternatives testing that gave rise to the current scheme

and its commensurate ability to deliver economic growth and facilitate sustainable local development. These national, strategic and HE policies and objectives are fundamental to justifying an appropriate scheme and should be properly accounted for in the pre DCO application design.

TRAFFIC MODELLING & TRANSPORT ALTERNATIVES

- 3.10 Thurrock Council is concerned that it has not yet received sufficient transport modelling evidence in support of the evaluation of alternative scheme configurations, provision for future growth scenarios in Thurrock, and consideration of impacts on the local road network. The Council therefore believes that Highways England has:
- i. Failed to demonstrate that the proposed layout of LTC through Thurrock is the optimum configuration, particularly the A13 junction;
 - ii. Failed to adequately consider the implications of the very significant levels of local growth on the LTC scheme; and
 - iii. Failed to satisfactorily assess the impacts of the LTC scheme on the local highway network.
- 3.11 This non-statutory consultation does not address these issues, and the Council's serious concerns remain. Appendix AA of the Summary Review summarises the position, detailing the issues of concern, the information that has been requested, the reasons for those requests and the inadequacy of HE's responses to date.
- 3.12 The Council therefore believes that the appraisal of options for the route north of the Thames thus far is wholly inadequate in the context of the scheme's substantial impact on the communities of Thurrock, and does not think it unreasonable to expect that HE should be able to present its appraisal of the options for alternatives: the design of the A13 junction, Tilbury Link Road, connections with local junctions, provision for local growth, connections with active travel and public transport modes. HE seems to be taking the lack of debate on these matters in previous years, and the passing of the scheme into its investment strategies, as being sufficient evidence that these matters have been dealt with. The recent experience of the A38 and A303 schemes suggests that this is not a safe assumption.

LOCAL IMPACTS & BENEFITS

- 3.13 There is a lack of secured benefits for existing communities and future growth in Thurrock. Key strategic issues remain outstanding, which have previously been raised by the Council. This lack of real benefits for Thurrock from LTC is in terms of a number of factors:
- i. Investment in delivery of a practicable local benefits strategy;

- ii. Ability to help facilitate a legacy in terms of local regeneration;
- iii. Provision of open space to contribute positively to place-making and deliver community benefits;
- iv. Improved local road operability to help facilitate liveable communities;
- v. Increased Public Rights of Way (PRoW) connectivity; and
- vi. Facilitate movement by active travel through improved connectivity and standards.

- 3.14 This is especially true regarding the emerging Local Plan, as the LTC scheme does not make provision for, and is inconsistent with, the housing and development potential for Thurrock and the aspirations for the Borough and for the wider South Essex area. LTC clearly presents, along its route, an opportunity to support and enable growth in sustainable locations, particularly in East Tilbury, Chadwell St March and South Ockendon, based on appropriate local access.
- 3.15 Clearly, without confirmation of HE's support on additional junctions at Tilbury, South Ockendon and Tilbury Loop Line Overbridge and approach roads; wider network improvements, public transport provision and the provision of more and better WCH facilities; then LTC will hamper future growth in Thurrock due to the severance of, or impacts on, the land available for the provision of homes and jobs in these locations.
- 3.16 The Tilbury Link Road (TLR) is required to provide essential and improved access to the Port of Tilbury, its Tilbury 3 and 4 expansion areas (as part of Thames Freeport) and other employment areas west of the LTC alignment, as an acknowledged major employment cluster in the emerging Local Plan. The TLR, as a critical ingredient in the success of Thames Freeport, must either be provided within the LTC scope or there must be a legal commitment for it to be delivered in parallel to LTC so that it is open for use at the same time LTC becomes operational. In the interim HE must legally commit to 'passive provision' for both the Tilbury and South Ockendon junctions and DfT must commit to the viability and principle of these junctions being provided onto the SRN. The Council is also aware that there is a conflict between the area for port expansion and the current proposals for 'Tilbury Fields'. It is essential that this conflict is resolved as part of these considerations prior to DCOv2 submission so as not to hinder the commitments to deliver Freeports.
- 3.17 A related concern is the effect of LTC on Thurrock's local roads affecting local connectivity, which has been and continues to be a key concern of the Council. In fact, the Council has consistently and repeatedly raised concerns at meetings and via representations that the impacts on the local roads and junctions are likely to be underestimated resulting in increased likelihood of delay at key junctions, such as the Orsett Cock, Manorway, Daneholes and Asda roundabouts and several other key

locations. HE and the Council agrees that further traffic modelling work is required to validate the LTAM model and identify these delay issues. This work should then be followed by improved mitigation proposals from LTC to address these likely impacts. These mitigations could take the form of junction improvements and/or complementary environmentally sound initiatives, including enhanced public transport connections and provision. These are completely missing from the current proposals. The Council contends that the impact on local roads must be part of the traffic modelling evidence base and if mitigation is required then HE should legally commit to a process for that mitigation (possibly a S278 or S38 Agreement or similar or even through a new Schedule 2 Requirement).

- 3.18 The Council contends that the LTC construction for a period of 6-8 years will create unacceptable impacts that require serious mitigation. Further work on construction traffic modelling is required to understand likely impacts and more robust traffic management and travel plans are required with defined governance, complemented by a progressive Materials Handling Plan that together maximise non-road transport, reduce impacts on local communities, and reduce embedded carbon. Workforce travel also must be secured, with targets, through encouragement of the use of active travel modes and reducing private car use. The Council considers that environmental impacts are likely to be significant, but must be based on more granular and updated data, especially in respect of air quality, noise, health, severance, effect on PRoWs with closures and diversions, loss of historic buildings and deleterious effects on cultural heritage and other key topics. Utility relocations are extensive and whilst reduced impacts have been achieved over the last year, there is still a lack of information on likely impacts on residents and businesses. Monitoring during construction for a range of factors is essential and the proposed monitoring regime to inform key control, management and governance is unclear.

THE FUTURE

- 3.19 The LTC scheme currently makes no substantive reference to the implications of the LTC scheme to transport decarbonisation, how the scheme might need to be adapted to respond to this challenge or to become an enabler of transport decarbonisation and green growth in the Thames Estuary using alternative modes and travel patterns. The HE Net Zero Highways Plan states that they will *'use the LTC scheme as a key project to test low carbon innovation and approaches'*. Therefore, the Council expects that HE should be making commitments in the DCO about transport decarbonisation and its implications locally. HE has stated that the DCO commitments on carbon will be stronger and more comprehensive than previously seen, but has expressed concern about committing to delivering outcomes that are inherently uncertain. However, the Council believe that it is possible and desirable to set broad objectives and a committed framework for future action, secured through the DCOv2. The Council believes this should involve within the LTC scheme regional public transport links using the proposed tunnel, achieving

net zero HGVs, use of the TLR for freight and public transport local connections and increased use of carbon reduction transport alternatives.

- 3.20 The Council is promoting its Active Travel Strategy through the emerging Local Plan that should result in increased usage of PRow and cycling routes throughout the Borough. The Council is therefore seeking meaningful support from the LTC scheme by requesting the addition of further routes and links to the 5 currently proposed within the LTC proposals. The Council wants to ensure that up-to-date DfT standards (LTN 1/20) for all bridge crossings are employed by HE (not currently confirmed) to accommodate this future usage. This will help to ensure that LTC does not become a future barrier to increased walking and cycling use across the Borough or cause the Council to incur severe financial penalties from DfT, resulting in a loss of capital and maintenance funding allocations.
- 3.21 There is no currently secured commitment from HE to achieve local skills and employment targets, particularly for apprentices, workless job starts, graduates and traineeships, work placements and training for local residents. Also, the Skills, Education and Employment Strategy (SEE) is not a 'control' document and not secured within DCOv2 and there are limited commitments within the CoCP/REAC. Therefore, the subsequent Employment and Skills Plans by LTC contractors are not committed to any overall framework. There is a once in a generation opportunity to support the local community to develop skills and employment opportunities. These commitments cannot be seen by HE as an add-on or burdensome requirement, but should be central to the LTC scheme. In addition, the LTC project has currently not committed to adopt the social value procurement requirements set out in both the Social Value Act, 2012 and the Council's Social Value Framework, adopted in November 2014 in procuring its goods, materials and services.
- 3.22 The Government's 'Decarbonising Transport – A Better, Greener Britain' was published on 14 July. This was followed on 19 July by HE publishing their 'Net Zero Highways – Our 2030/2040/2050 Plan'. HE were fully aware of these significant documents prior to its consultation exercise. It is expected that HE provide clear commitments to decarbonising the LTC scheme throughout its lifecycle, prior to DCO re-submission, and explain how these two critical policy documents will be addressed through the DCOv2. The current LTC scheme and the associated climate change impacts appear to be inconsistent with the 78% Carbon Reduction by 2035, which is now enshrined in UK law via the Climate Change Act 2008 (and its 2019 Amendment Order) and its subsequent Carbon Budget Orders of 2021. Measures expected should include both project specific interventions, such as zero carbon energy provision for operation, landscaping and low embodied carbon material use; and, regional interventions, such as supporting strong modal shift to sustainable transport modes, new low carbon infrastructure and legacy skills.

THE LEGACY

- 3.23 The Council is disappointed that very few of the 58 measures set out in the Hatch Report have been agreed, as referred to in paragraph 1.3.3 above, despite some 9 months of continued and focused technical discussions. Key priority measures for the Council are jobs and skills commitments, social value commitments, wider network (East Facing Slips and A13 trunking) commitments, several local connectivity improvements (passive provision for two future junctions, Tilbury Loop Line Overbridge, roundabout improvements and TLR), improvements to public transport connections, Council funding support and further improvements to the PRoW, and cycling network and use of compliant standards. These measures are considered crucial to the Council in achieving its provision for the emerging Local Plan and to ameliorate the current LTC scheme, reducing its impacts on residents.

TECHNICAL & PROCESS MATTERS

- 3.24 Local authorities need to have a leading role in the discharge of DCO Requirements, as they do in most DCO applications, excepting those currently by HE. The majority of LTC is within Thurrock. The Council is the interface between the development for the majority of the strategic road network and creating benefit for the future of local residents/ stakeholders. The Council is concerned that leaving the discharge of requirements to the Secretary of State risks the national strategic case dominating future plans and the local case for local residents/ stakeholders being overlooked.
- 3.25 There are still significant information gaps and the potential for under-reporting potential impacts within this consultation. This information is critical for the Council to provide a fully informed and appropriate response, which it cannot do. This is evidenced by the joint local authority letter to HE setting out these 3 critical deficiencies/omissions, as forward to PINS in August 2021.
- 3.26 The Council is concerned about the lack of adequate provision for emergency services within the LTC scheme or any securing mechanism for its provision, especially relating to the lack of detail and absence of measures to support the emergency services and safety partners. It does, however, recognise that the Emergency Services and Safety Partners Steering Group (ESSPSG) have provided their initial response to HE in August 2021 and they will be providing a separate and more detailed response to the HE Consultation, which will set out their concerns in detail. The ESSPSG have sought the memberships' approval to submit this draft response by the deadline, allowing for further governance and any further detailed comments to be made in the following weeks.
- 3.27 The Council's main substantive concerns regarding proposed utilities diversions relate to the extent of land-take required and likely impacts on communities and existing infrastructure, including in terms of disruption and safety. These concerns and deficiencies significantly hinder the ability of the Council to clearly understand the types and levels of environmental impacts

and mitigation requirements associated with each proposed utility diversion and so the current LTC scheme does not clearly establish the environmental acceptability of all proposed diversions. These concerns can be summarised as: inadequate reporting; absence of consistent referencing and diversion descriptions; inability to validate Nationally Significant Infrastructure Project (NSIP) screening conclusions; lack of clear identification/screening of OHL proposals; absence of justification to support assumed Associated Development status of non-NSIP diversions (as required in DCLG Guidance on associated development, 2013); utility diversions have been considered as a consequence of the preferred route and not as a major design consideration at the outset; weak application of undergrounding test within NPS EN-5; and, weak approach to environmental mitigation secured through EMP2 (and limited commitments in the CoCP/REAC) with consequently less control. All these concerns must be addressed before DCOv2 to resolve the vagueness of the current proposals and mitigations.

HE COMPENSATION POLICY & THURROCK'S LAND INTERESTS

- 3.28 HE's policy, 'Your property and compensation or mitigation for the effects of our road proposals', simply refers to and re-states legislation that provides LTC with options for mitigating scheme impact both to the environmental and to local residents. The measures for local residents include options in respect of increased noise (including planting, noise insulation and noise payments), expenses for suitable temporary moves and off-line discretionary home purchase. The policies, in most cases, do not go further than the statutory position and provide limited comfort due to their discretionary nature and lack of specific details (including application process, response timeframe and support etc.). Further no support is offered for local businesses or other property uses outside of residential.
- 3.29 The Council's land interests have been identified as totaling 174 land parcels that are impacted by the LTC scheme. These cannot be properly assessed as the 'Statement of Reasons' does not provide sufficient detail, including only limited justification and explanation for the sought compulsory powers and land requirement. However, its deficiencies include no design justification, the mitigation proposed, predicted local impact, acquisition dates and exact land take and timeframe for temporary possessions. It is hoped that this further information can be provided in detailed engagement meetings between the parties, prior to DCOv2 submission.
- 3.30 Appendix B contains the technical appendices set out in greater detail the Council's response to: Draft technical 'control' documents; Summary comments on the Council's land interests; Summary Comments on HE's non statutory compensation policy; and, Summary Comments on the HE review of utility diversion impacts for the additional utility NSIPs. All these documents have been reviewed by Council officers and consultant specialists. Together they represent a summary of the Council's views on the consultation materials.

4 Reasons for Recommendation

- 4.1 The LTC consultation scheme in its current form causes substantial harm but delivers no local benefit for Thurrock. The Council is unanimous in its current position in this regard.
- 4.2 The Council should, in order to protect the interests of the Borough and its resident and business community, submit an agreed consultation response both as a local authority and as a landowner by the deadline.
- 4.3 The consultation response may need to be amended to include any specific issues which arise as part of the debate. As a consequence, a delegation is sought to enable officers to give effect to those changes.

5 Consultation (including Overview and Scrutiny, if applicable)

- 5.1 There has been ongoing engagement with the LTC Task Force in the formulation and approach to the Council's consultation response.

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 Lower Thames Crossing will have a significant impact on the emerging Local Plan as well as associated policies and documents.

7. Implications

7.1 Financial

Implications verified by: **Jonathan Wilson**
Assistant Director of Finance

The Planning Performance Agreement (PPA) in place currently caps the financial support being provided to the Council which could add to financial pressures. Further the PPA does not provide financial support for anything which is considered to be a statutory function. This includes the response to statutory consultation.

The Council has currently agreed a recurring annual budget of £106k which is further supported by reserves of £610k, whilst also continuing to fund an Assistant Director to lead on this work. The funding in place continues to be monitored as the process evolves. The current projection is based on the understanding that LTC would be submitted to DCO in Autumn this year. There are however a number of complex factors at play which may mean that HE consider it prudent to delay submission until Spring, or potentially longer.

7.2 Legal

Implications verified by: **Ian Hunt**
Assistant Director Law and Governance

This report seeks authority to submit a response to the pre-application consultation being carried out by National Highways as a precursor to its submission of an application for a Development Consent Order ('DCO') in relation to the proposed Lower Thames Crossing, which is classed as a Nationally Significant Infrastructure Project ('NSIP'). Detailed implications are considered in the body of the report and the detailed appendices.

As the Secretary of State rather than the Council will be the decision-maker in respect of the proposed application, the Council is being consulted in its roles as both a local authority and as a landowner with interest in some of the land comprised in the proposed application. This approach reflects the status and roles of the Council as a statutory consultee under the Planning Act 2008 regime.

It should be noted that the Council will also have an opportunity to submit representations to PINS and participate in the Examination of the application including in any hearings..

It should also be noted that the DCO process removes the need for the applicant to separately seek and secure a range of consents (such as planning permission, approvals for highways works and compulsory acquisition of land) that may be required for a scheme. Accordingly, the Council's response should, as necessary, seek to address the key issues raised through the consultation process, which may include (but not be limited to): requirements on the DCO and/or planning obligations that the Council considers should be provided to mitigate the impact of the development; the potential requirement for the stopping up or diversion of highways (including Public Rights of Way and Bridleways); the potential need for highways works and /or Traffic Regulation Order type provisions in any DCO ; any objections that the Council may have including with respect to environmental impacts including to air quality and health, proposals for the compulsory acquisition of land (or interests on, under or over land) owned by the Council and any protective provisions the Council may wish to secure in the DCO in its capacity as an affected landowner

7.3 Diversity and Equality

Implications verified by: **Rebecca Price**
Team Manager - Community Development and Equalities

The council has responded to three of HE's previous Community Impacts Consultations since 2018. Two of these consultations have taken place

during the height of the pandemic potentially restricting participation of some communities and protected groups that have faced restrictions as a consequence of clinical vulnerability to COVID-19. It is also unclear whether provisions were and have been made to enable the voice of those who do not speak English as a first language.

The latest (forth) consultation is due to close on 8th September with the council maintaining the position that, in its current form, the scheme will deliver no local benefits for Thurrock therefore impacting all. Some protected groups and communities are likely to face disproportionate impacts based on the current scheme through construction and operational stages – these include minoritised ethnic groups, those with existing health conditions and users of mobility aids and pushchairs.

7.4 **Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

The scheme includes the proposal to compulsorily acquire land from the Council to facilitate the delivery of the scheme. Some of the land in question is leased in particular some of the land affected which is agricultural land. The true impacts of this will not be understood until the DCO application is submitted and therefore the red line boundary of the scheme will become fixed. Any acquisition of land will be subject to rigorous scrutiny to ensure it passes the legal, policy and guidance tests. Ultimately any land will not be acquired compulsorily until after the DCO were to be granted. The Council would be compensated under the statutory code for compensation for land taken either permanently or temporarily for the scheme.

8. **Appendices to the report**

Due to their sizeable length, the appendices have not been printed in the hard copy agenda but will be available to access online at:
www.thurrock.gov.uk/committees-meetings-minutes

- Appendix A – Consultation Response - Main Summary Review Report
- Appendix B – Consultation Response - Appendices A and B
- Appendix C – Consultation Response - Appendices C, D, E, F and G
- Appendix D – Consultation Response - Appendices H, I, J and K

Report Author:

Dr Colin Black, Assistant Director, Interim Regeneration and Place Delivery

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