

14 September 2022		ITEM: 11
		Decision: 110622
Cabinet		
Lower Thames Crossing – Delegation of Authority to Respond		
Wards and communities affected:	Key Decision:	
All	Key	
Report of: Councillor Coxshall, Deputy Leader and Cabinet Member for Regeneration and External Affairs		
Accountable Assistant Director: Colin Black, Interim Assistant Director – Regeneration and Place Delivery		
Accountable Director: Karen Wheeler, Director - Strategy, Engagement and Growth		
This report is Public		

Executive Summary

To ensure that Thurrock Council is able to act in line with its statutory function throughout the Development Consent Order (DCO) process and to respond quickly to the Planning Inspectorate (PINS) up to and during the DCO examination, it is important that the delegated responsibilities are clearly articulated.

1. Recommendation(s):

- 1.1 That Cabinet authorises the Director Strategy Engagement and Growth, after consultation with the Leader of the Council and the Portfolio Holder, to undertake all necessary work in connection with the Council's response to the Lower Thames Crossing DCO and for ensuring that the Council is properly represented at any Examination in Public, and for making decisions in the best interests of the Council during negotiations. This will involve Council responses to make representation following LTC DCO submission, prior to examination, and during examination. Responses will include, but are not limited to, Adequacy of Consultation Response, Statement of Common Ground (and its subsequent revisions), Local Impact Reports, PINS written questions, and other relevant representations related to LTC.**

2. Introduction and Background

- 2.1 The Council remains opposed to key elements of the proposed road crossing of the Thames into Thurrock in the current alignment. The focus of ongoing work with National Highways (NH) is to collaborate to ensure that the LTC scheme

presented by NH is workable, its impact minimised, and the benefits to residents and businesses in the Borough optimised through constructive opposition. The Council will also continue to hold National Highways to account to ensure that all statutory obligations are clearly met.

- 2.2 NH has indicated that it intends to submit its DCO in November 2022 or by end March 2023 at the latest. Statutory consultation was undertaken in 2018 and the scheme has been amended through four subsequent rounds of non-statutory consultation since. NH submitted its DCO first in October 2020 which it subsequently withdrew following serious concerns expressed by the Planning Inspectorate about the adequacy of its consultation.
- 2.3 A substantial workload of technical discussions, and analysis of data has been undertaken by a consistent team over recent years ensuring continuity of approach and resource efficiency.
- 2.4 As the LTC DCO submission approaches there will be a significant increase in the number of responses that Thurrock Council will need to make as part of its statutory functions. A summary of these key DCO events is provided in the table below (based on a November 2022 DCO submission). There will not be sufficient time to take all papers for decision through committee, so it is important that delegated powers are agreed in advance.

Work Programme & DCO Timetable

Legend

	Urgent, but reasonable PINS or LTC timetable or lead-in
	Very urgent and short PINS timetable with limited lead-in

Key DCO Event	What is Required	Deadlines
Comments on DCOV1 (Pre-DCOV2 Submission)	Detailed technical input depending on the topic	Done through many Technical Document responses during 2021 and then CIC and LRC consultation responses
Ongoing discussions on Issues Logs/Themes and hence the Statement of Common Ground (SoCG)	Review of DCOV1 + technical responses from LTC + attendance at SoCG meetings	To match the next wave of Issues meetings up to September/October 2022
DCO SUBMISSION	N/A	November 2022
QC Con	Initial preparation of Examination Strategy	March 2022 and then probably September)
Adequacy of Consultation (AoC) rep	Potential input on key matters, but no external LTC meetings	14 days from DCO Submission
Potentially PINS could request(s) further information prior to	Potential for additional comment on additional information	As specified by PINS, but probably quite short

Acceptance (using possibly Reg 5, The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009)		
PINS decision on AoC	N/A	Up to 28 days after DCO Submission
Interaction with Members and the Public	Council governance processes and assistance with registration as an 'Interested Party' (using AN 8.1 and AN 8.2)	For a period 28 days, with the deadline being set after Acceptance
PINS request(s) for further information (Rule 17)	Unknown, but largely likely from LTC, but we would then need to review and include comments in the LIR and Written Rep	Unknown, but PINS usually request such information within a month of asking, so our deadline would follow that period.
Interaction with Members and the Public	Council governance processes and accounting for any contributions from the public in preparing the LIR, as a representative of the public	During the following 3 months, i.e. during the period Jan 2023 – March 2023
Preparation of Local Impact Report (LIR) and relevant representations, which are key documents (and similar in nature, but not content)	Substantial inputs on specific technical issues to assess how previous comments on the technical documents dealt with (previous technical comments to be used to assess the DCO submission)	During the following 3 months, i.e. during the period Jan 2023 – March 2023
PINS Rule 4 Letter (appointment of Panel)	No input	Prior to Preliminary meeting
PINS Rule 9 (Notice of Procedural Decision) – such as 'Principal Areas of Disagreement Summary Statement'	No input, but may create further work and documents	Deadline determined by PINS Chief Examiner, possibly tied to Relevant Reps (RR)
PINS Rule 6 Letter and Preliminary Meeting (Stage 1), which begins the formal timetable	Limited input	Unsure, but likely around April-May 2023
PINS Rule 8 Letter (Examination Timetable)	Limited input, it sets out the exact timetable and our likely involvement	Immediately after the final Preliminary Meeting (after Stage 2), i.e. summer 2023
Interaction with Members and the Public	Council governance processes, preparing public	Usually post-Rule 8 for several weeks

	for Examination input, attendance	
Submission of Relevant Representation (RR) and Written Representation (WR) (key documents) + comments on other reps	Some technical involvement and checking	Post-spring 2023
PINS Written Questions	Likely significant technical input, dependant on the questions	Very significant technical involvement in whatever questions are assigned to Thurrock, usually needing a final collective response to all questions within 21 days from receipt.
Finalise SoCG (after several iterations)	Checking/confirming status of issues	Likely by late summer/autumn 2023
Attendance at Hearings (Issue-Specific, Open Floor or CPO)	Some direct witness involvement, mostly back-office support during the Examination	Unknown yet, but during a 6-month Examination period probably from late spring/early summer 2023

3. Reasons for Recommendation

- 3.1 To expedite decision making to ensure and responses can be made within the necessary timescales to uphold the best interests of the Council during the LTC DCO examination process.

4. Consultation (including Overview and Scrutiny, if applicable)

- 4.1 Not applicable.

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

- 5.1 None

6. Implications

6.1 Financial

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

There are no specific financial implications arising from the report and the work is funded from within existing budgets.

6.2 Legal

Implications verified by: **Gina Clarke**
Corporate Governance Lawyer & Deputy

Monitoring Officer

This is a report to clarify decision making processes relevant to the Lower Thames Crossing and there are no direct legal implications arising from this report.

6.3 Diversity and Equality

Implications verified by: **Roxanne Scanlon**
Community Engagement and Project Monitoring Officer

There are no diversity implications arising from this report.

6.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder, and Impact on Looked After Children

None

7. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- None

8. Appendices to the report

- None

Report Author

Dr. Colin Black

Interim Assistant Director – Regeneration and Place Delivery