

Classification: Public

Key Decision: No

Note: Recommendations adopted at Cabinet with the removal of the word 'minor' from no.1

Gravesham Borough Council

Report to: Cabinet
Date: 23 March 2020
Reporting officer: Director (Planning and Development)
Subject: Lower Thames Crossing Supplementary Consultation

Purpose and summary of report:

To formulate the Council's response to the Supplementary Consultation on the Lower Thames Crossing and review overall progress on this project.

[Type a quote from the document or the summary of an interesting point. You can position the text box anywhere in the document. Use the Drawing Tools tab to change the formatting of the pull quote text box.]

Recommendations:

1. Approve the draft response to Highways England's Lower Thames Crossing Supplementary Consultation Questionnaire set out in Appendix 3 for submission by 25 March 2020 and authorise the Director (Planning and Development, in consultation with the Leader of the Executive, to make any necessary typographical or other minor adjustments ahead of submission;
2. Note the Supplementary Consultation Appraisal in Appendix 4;
3. That authority be delegated to the Chief Executive for the production of a letter to Highways England, which will be jointly signed by the Leader, setting out the concerns not covered by that response set out in Appendix 3. This letter will be sent shortly after the close of the supplementary consultation;
4. Agree that the Planning Inspectorate be sent a copy of the letter referred to in recommendation 3, emphasising the Council's concerns about the adequacy of information in the PEIR and this consultation; and
5. Agree that the Director (Communities) write to Highways England from a property perspective including issues raised by the potential Compulsory Purchase of land at Cascades.

1. Introduction

- 1.1 Highways England carried out statutory consultation on its proposals for the Lower Thames Crossing in the autumn of 2018. Council considered the matter on 18 December 2018 and provided a full response. Highways England, in July 2019, provided a summary report on the results of the consultation, which attracted over 29,000 responses. Gravesham, however, has never had a detailed response to its many points, although some have been addressed in this consultation.

- 1.2 Highways England has continued to develop the scheme, carry out ground investigations and other surveys, and explore in more detail issues arising from construction and the diversion of utilities proposals. Ongoing officer-level meetings have been held on a wide variety of topics and informal comment made on emerging proposals, data surveys etc. These, in themselves, do not constitute any form of formal response from the Authority.
- 1.3 Technically this consultation is about the material in the Supplementary Consultation only, but it does provide a useful point in time to consider the overall progress of the project. The response is therefore proposed to be in two parts: a response to the formal consultation and a letter on other issues.
- 1.4 It should be noted that the current proposals include the potential Compulsory Purchase of Borough Council land at Cascades, so there is a property dimension to this consultation that did not previously exist.
- 1.5 The Borough Council has consistently objected to a Lower Thames Crossing route to the east of Gravesend at the various consultations over the years, reaffirmed in 2018, and which forms the starting point for our response. That said it is important to ensure that any scheme that is eventually approved is the best possible for Borough residents, its ecology, landscape and a host of other factors.
- 1.6 The Borough Council's response to the Statutory consultation, as submitted in December 2018, included the following key points (numbering from the Council minute):
 4. *the Council considers the Preliminary Environment Information Report (PEIR) to be deficient in a number of areas and it fails the requirements of the relevant Regulations.*
 5. *the Council considers that further design work, environmental assessment and consultation needs to be carried out on the Thong Lane Bridge north and the tunnel portal to mitigate the impacts of the scheme on local residents through consideration of, amongst other things:*
 - i. *Extension of the tunnel southwards whether bored or cut and cover.*
 - ii. *Widening of the Thong Lane green bridge to a minimum of 80m.*
 - iii. *Mitigation for Riverview Park and Thong residents from the impacts of noise, disturbance and air quality*
 6. *the environmental impact of the new LTC/A2/M2 junction on the A2 corridor is unacceptable and further detailed work is required if an acceptable solution is to be produced, which needs to address, amongst other things:*
 - i. *Design speed of the junction slip roads ensuring free flow.*
 - ii. *Width of Thong Lane South and Brewers Road green bridges.*
 - iii. *Loss of HS1 landscaping and the overall impact on landscape, nature conservation and historic environment, particularly in the Kent Downs Area of Outstanding Natural Beauty.*
 7. *the Council considers that the Gravesend East junction should connect direct to the A2/M2 east-bound and, if possible, Lower Thames Crossing but that it is not in a position to make a definitive judgement in the absence of a proper assessment of alternative junction designs and detailed highway modelling.*

8. *the Council cannot provide a definitive view on the issue of variable charging, given the lack of information, transport modelling and consequential impacts, but basic principles should be:*
 - i. *Same charging regime at both Dartford Crossing and Lower Thames Crossing.*
 - ii. *GBC residents receive the same discount as those in Dartford and Thurrock which should apply to both crossings and start from commencement of construction.*
 - iii. *No additional charging in the peaks.*
 - iv. *A proportion of the revenues collected from tolls should be paid to a Community Fund administered by this Council to undertake leisure and other projects that will benefit the local community.*
 - v. *The above and other matters should be examined in detail through a working group.*
9. *the Council considers that the transport modelling needs to reflect the requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, National Policy Statement for National Networks (2014), and the National Planning Policy Framework (2018), and associated guidance, upon Local Authorities for the delivery of housing.*
10. *there is considerable concern over the wider impacts on the wider highway network in Kent, in particular on A227, A228, A229 and M2 and well as the potential implications for local roads from the junction arrangements. These are not assessed as part of this consultation and this is a serious omission on the part of Highways England. It is imperative that a full assessment is conducted and that any improvements to the local strategic highway network found necessary are programmed and implemented prior to the opening of the new Crossing. The Council is particularly concerned at the absence of any evaluation of the Bluebell Hill junction on the A229 and considers that the suggestion of vehicles using the A249 as an alternative is completely unrealistic.*
11. *the information about the construction compounds is unclear and there is considerable concern over the implications for local residents and the environment given the long timescale involved and the activities that may take place.*
12. *there will be considerable disruption to the lives of residents both during the construction period and when the Crossing is in use and there should be arrangements for adequate financial compensation to those affected.*
13. *during the construction phase Highways England should require its contractors to use local labour wherever possible, including the creation of apprenticeships to provide a long term legacy of a higher skills base in the area.*

2. Supplementary Consultation

2.1 The current consultation is made up of the following basic documents, which need to be seen in relation to the scheme set out in the statutory consultation in October 2018:

- Guide to supplementary consultation (main consultation document)
- Traffic Modelling Update

- Utilities Update
 - Environmental Impact Update
 - Map Book 1: General Arrangements
 - Map Book 2: Land Use Plans
 - Map Book 3: Engineering Plans
- 2.2 The main proposed changes have been driven by more detailed consideration of the design of the scheme and its mitigation. In particular, work has been undertaken in respect of the construction process and utilities diversions. The consultation is accompanied by a new 'red line' boundary and some further clarity on land required for the scheme (including mitigation land) and that required temporarily for construction purposes.
- 2.3 Some of the provisions contain elements that constitute alternatives or where the project hopes to reduce the scale of impact from more detailed design. For the purposes of responding to this consultation however the comments have to assume all elements will be implemented to their maximum extent.
- 2.4 Main proposals changes from the River Thames in the north to the A2 in the south include to both the design and arising from the construction process (more detail can be found in Appendix 4):
- i. Counter bored tunnel (5.8m diameter) under marshes at shallower depth for ground stabilisation works in advance of the main tunnel boring machines, plus construction sites, from Lower Higham Road to the marshes north of the railway and canal
 - ii. Extension of the working areas along the A226 Rochester Road for construction purposes, spoil storage, and creation of 'Chalk Park'
 - iii. Three options for location of an electricity sub-station along the A226
 - iv. Extending the tunnel by 350m to the south
 - v. Changes to the Public Rights of Way diversions as a result of moving the tunnel portal
 - vi. Changes to the planting proposals in the corridor from A226 to A2
 - vii. Widening of the Thong Lane land bridge to 80m
 - viii. Demolition of additional three residential properties and a business at Thong
 - ix. Inclusion of a new planting area SW of Marling Cross junction
 - x. Revised A2 junction design including a direct link from Marling Cross junction onto the M2 coastbound
 - xi. Marling Cross junction becomes a gyratory system over the A2 with traffic signals
 - xii. Narrowing of A2/A289 through the Kent Downs Area of Outstanding Natural Beauty (AoNB) through changes to lane width and central reservation
 - xiii. Increasing the width of Thong Lane South bridge and re-alignment Brewers Road bridge to avoid works on HS1 structures
 - xiv. Amended proposals for the diversion of NCR177 cycleway south of HS1
 - xv. Provision for utility diversions/additions

- New electricity cable under old A2 from Pepper Hill to Marling Cross and then north to tunnel portal area to the proposed electricity substation
- Diverted major gas main from Marling Cross to Park Pale via north Thong Lane Bridge, Inn on the Lake, southern edge of Shorne Wood Country Park and Brewers Wood
- Utilities diversions under A226 from the tunnel portal areas through Higham and another under Halfpence Lane, The Street, Jeskyns Road and Henhurst Road Cobham
- Southern route for utilities from Marling Cross under A2 and HS1, east beneath Jeskyns and thence north under Ashenbank Wood to Inn on the Lake or the northern end of Halfpence Lane. Also along northern edge of Cobham Park to the Rochester and Cobham Park Golf Club access
- Revised footpath/cycleway diversions as a result of the physical design changes
- Possible construction routes – mainly A2, A226, A289 but also Lower Higham Road and Ordnance Road/Canal Road for the work sites on the marshes

2.5 This report is focussed on the route in Gravesham, but there are a series of proposed alterations in Thurrock as well, which can be found in the consultation documentation. There are, however, some alterations which have a wider significance:

- The LTC between the M25 and A13 southbound is reduced from 3 lanes to 2 lanes
- The A13 junction has modifications but it remains that, travelling north on LTC, it is not possible to turn west without first going east and using a junction to come back west (i.e. access to Lakeside area is still easier via the Dartford Crossing). There is also an issue of how anyone accidentally using the crossing gets back to Kent.
- The service area has been deleted at the tunnel portal which means that there are no services on the LTC link, even though the current Cobham Services are being lost, which may have implications for lorry parking and driver welfare
- As a result, there is no active provision for an access road into Tilbury port (though the just published Road Investment Strategy make reference to a new road into Tilbury)

2.6 The project team has now decided, following consultation response and further technical analysis, that the Lower Thames Crossing charge will be the same as at the Dartford Crossing. It is the intention that the project will include a local residents' discount scheme which will 'apply to residents of both Thurrock and Gravesham and will be implemented on a similar basis, with the same level that applies at Dartford'. It is not currently clear if this means Gravesham residents will get the same discount at both crossings, or just LTC, but officers are seeking clarification on this issue.

3. Appraisal

3.1 Appendix 2 contains a plan (found in more detail in Map Book 2) showing the areas contained in the current and 2018 red line boundaries and what they will, in

- broad terms, be used for. The grey is land not going to be used or acquired but is included for clarity. The other categories are pink for land to be used permanently (the scheme or landscaping/planting), yellow for permanent acquisition of subsoil and rights (i.e. Thames Tunnel), blue for temporary possession of land and permanent acquisition of rights (for utilities), and green for the temporary possession of land during construction.
- 3.2 Appendix 4 contains a more detailed explanation of what is being proposed and an appraisal of the environmental implications insofar as they can be determined at this stage and with the level of information made available. Appendix 3 contains the proposed response to the Highways England Consultation Questionnaire.
- 3.3 The consultation includes a number of proposed changes, in all or in part, along the lines suggested by the Borough Council back in 2018 and is therefore to be welcomed. These include (with reference back to the Council's 2018 response in para 1.5 above):
- Extension of Thames tunnel southwards by 350m (5(i))
 - Widening the Thong Lane Green Bridge to 80m (5(ii))
 - Width of Thong Lane South (widened from 15.8m to 29.5m) and Brewers Road has had its alignment changed (6(ii)) to avoid works on the HS1 tunnel
 - New slip road from Marling Cross to M2 (7) – although that was caveated with a need to understand traffic impacts
 - Discount for residents using the Lower Thames Crossing (8)
- 3.4 On the other hand, there are various proposals that either raise serious concerns or need further explanation:
- Ground stabilisation tunnel and resulting construction sites (new)
 - Location of 50x50m electricity substation on Rochester Road (new)
 - Chalk Park and the temporary storage of spoil (new)
 - Understanding the overall logic and proposals for landscaping and planting on the east side of Gravesend
 - Loss of property at Thong and impact on the conservation area (new)
 - Further erosion on ancient woodland at Claylane Wood, Shorne Wood, Brewers Wood and Ashenbank Wood (some new)
 - Nature conservation impacts on the SSSI's (some new)
 - Landscape impacts on the North Downs AONB and the setting thereof
 - Potential impacts on Cobham Park and the wider heritage landscape and assets
 - New compensation sites at Ifield and adjoining Brewers Wood
- 3.5 The overall level of information supplied to support the consultation means that it is difficult to arrive at a view on some issues. For example, the substation proposal at 50m x 50m is substantial (half the size of the HS1 facility at Singwell). Three locations are suggested but, without a plan and greater understanding of implications, recommending a specific response is not possible.

4. Traffic modelling

- 4.1 As noted in the last report, there is a very large and complicated transport model covering the highway network. Reservations were expressed last time about the calibration of the local network and the amount of development included in the model.
- 4.2 The model has been updated and amended, but the only information we have is that contained in the Traffic Update report which is described as:

The main future development areas, either with planning permission, a submitted planning application or within an adopted local plan, are included in the model ... This information has been refreshed in our updated model, using information provided by local authorities in early 2019. However, growth associated with government housing targets which have not yet fully progressed through the planning system is not included.

- 4.3 Kent County Council, as Highways Authority, was provided with an older version of the model and they commissioned consultants to undertake an appraisal. Their analysis of the old version of the model raises a number of issues that on current information it is not possible to answer.
- 4.4 The schedule of the development included in this version of the model was requested back in November and has not been supplied. It has been updated with information supplied by the Local Authorities, but still follows narrow WebTag rules. For example, the development counted in Medway now reflects some of the employment permissions that were missing previously but fails to account for proposals to expand Hoo, for which Ministry of Housing Communities and Local Government has granted £170m. The Council has always made the point that Highways England may do a narrower version for Treasury Green Book appraisal purposes but, for Environmental Assessment, a 'reasonable worst case' is required.
- 4.5 Accurate assumptions for the modelling are essential. For example, the air quality impacts arising from the proposals are, to a large extent, dependent on the road traffic impacts modelled by the applicant which are used to estimate pollutant emissions from road traffic. Deficient assumptions would mean that the air quality impacts presented by the applicant could be underestimated.

5. Overall Process

- 5.1 The next stage in the process depends on how the project is proposed to progress. At a public meeting at Thurrock Council it was stated by Highways England that there may need to be a further round of consultation. Currently the target is to submit the DCO in 'summer 2020'.
- 5.2 This is a matter for the applicant, but they do need to be sure that their proposal is in a fit state for Examination. At the submission stage, the Borough Council will have the opportunity to write formally to the Planning Inspectorate as to whether the consultation process has been adequately carried out – this is in terms of both process and content.
- 5.3 On the basis of the inadequate content of the Preliminary Environment Information Report (PEIR), as highlighted in 2018 and picked up by numerous other consultees, and the failure to address this in the new material, the current position would be that this Council would consider the consultation process deficient and

therefore that the application should not be accepted as adequate. It is understood that this concern is shared by a number of the other Local Authorities and Statutory bodies

6. Discussion

6.1 The new consultation is to be welcomed in formally taking the process forward and providing a point at which to take an overview of the project. This can be divided into the following elements:

- Response to the consultation itself (as defined by the Highways England questionnaire)
- Review of the overall process

Supplementary consultation

6.2 Appendix 3 contains the proposed response to the Highways England Questionnaire, which focusses on the changes proposed. As noted in paragraph 3.3, some of these are positive in responding to points that the Borough Council has previously made. These are to be welcomed, especially the further extension of the tunnel which has moved 950m south since the 2016 proposals. Even with these there are matters which need further exploration as any change is likely to have upsides and downsides.

6.3 The new or amended elements raise very major concerns on environmental grounds, especially in relation to ancient woodland. The National Policy Statement on National Networks (para 5.32) is unequivocal on this matter:

“The Secretary of State should not grant development consent for any development that would result in the loss or deterioration of irreplaceable habitats including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the national need for and benefits of the development, in that location, clearly outweigh the loss.”

6.4 When considering overall environmental effects on nature conservation, historic assets, and landscape on the A2 corridor, in combination these must be regarded as significantly adverse.

6.5 It is very difficult, other than at the most basic level, to assess environmental impacts due to the lack of information. There is no information about the possible implications of the ground preparation tunnel under the marshes on the water table, the introduction of grout or backfilling after its role is complete.

6.6 The updated traffic modelling (along with the additional technical work undertaken for KCC) confirms many of the concerns previously expressed. For Gravesham itself the local roads around Cobham and Thong remain a major concern that needs more detailed information to understand the implications. The impacts on A227 and Tollgate junction (A2) also need further exploration. More widely, there are major issues with the M2, A228 and A229 which Highways England need to address, by whatever means, where they are a direct result of their Lower Thames Crossing project.

Overall process

6.7 Standing back from the immediate consultation there is a concern over a number of issues:

- Lack of clarity of the status of information supplied at meetings, when a response is required and when not and how such feedback is considered by the project team.
 - The inadequacy of the PEIR has not been rectified. When the DCO is submitted the Borough Council has to inform PINS whether it feels the consultation, in terms of the Statement of Community Consultation (SoCC) produced by Highways England, has been met.
 - The scheme as currently proposed, even allowing for the inevitable consequences of developing proposals in more detail, is materially different from the route choice made in 2016 and therefore whether that choice is still correct
 - Timing issues of the DCO submission in view of the above
- 6.8 The Council has taken legal advice on the tests to be applied to the PEIR, on which there is no case law. The Planning Act 2018, the relevant regulations and other advice are written in general terms which leave a large amount of flexibility to the applicant. The Regulations say the information supplied should be that “...reasonably required for the consultation bodies to develop an informed view of the likely significant environmental effects”.
- 6.9 There are four generic tests (the so called ‘Gunning principles’ from a Supreme Court judgement) which apply to consultation exercises:
- i. the consultation must be at a time when proposals are still at a formative stage
 - ii. sufficient reasons must be given for any proposal to allow for intelligent consideration and response
 - iii. that adequate time must be given for consideration and response
 - iv. that the product of the consultation must be conscientiously taken into account in finalising any statutory proposals
- 6.10 The application of these tests will depend on the facts and circumstances of a particular case. There is also the dynamic of the process of developing a scheme which means that additional proposals and information may come forward over time.
- 6.11 At this point in time the Borough Council’s conclusion is that adequate information is not being supplied to allow the Council to enable a fully informed response to consultation.
- 6.12 Thus, officers consider the Council should continue to object to the scheme in principle, given inadequate justification when considered against scheme objective, reasonable alternatives and overall adverse environmental impacts, and that the changes do not change the Council’s fundamental position.
- 6.13 Furthermore, should the scheme progress, the Council should expect Highways England to enter into direct negotiations on a substantial package of mitigation and compensation and that this should be agreed prior to submission

Climate Change

- 6.14 An issue not addressed in the consultation material is the implications for the project of the Government’s commitments on climate change. The recent Court of Appeal judgement on the Governments approach to the third runway at Heathrow

said that the Climate Change legislation needed to be taken into account. By extension this may have implications for the National Policy Statement on National Networks.

7. BACKGROUND PAPERS

- 7.1 GBC response to October 2018 Statutory Consultation can be found at <https://www.gravesham.gov.uk/home/planning-and-building/major-projects-and-developments/lower-thames-crossing> and the consultation material at <https://highwaysengland.citizenspace.com/ltc/consultation/>
- 7.2 Highways England Supplementary consultation documents can be found at <https://highwaysengland.co.uk/lower-thames-crossing-consultation2020/>

Anyone wishing to inspect background papers should, in the first place, be directed to Committee & Electoral Services who will make the necessary arrangements.

IMPLICATIONS	APPENDIX 1
Lower Thames Crossing Supplementary Consultation	
Legal	The new red line boundary now includes proposals that would potentially Compulsory Purchase Gravesham Borough Council land.
Finance and Value for Money	Limited financial costs at this stage but the DCO submission stage will require significant resources
Risk Assessment	High
Data Protection Impact Assessment	<i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i>
	<p>a. Does the project/change being recommended through this paper involve the processing of personal data or special category data or criminal offence data?</p> <p>A definition of each type of data can be found on the Information Commissioner's Office website via the above links.</p>
	<p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice?</p> <p>Not applicable</p>
	<p>c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at gdpr@medway.gov.uk.</p> <p>Not applicable</p>
Equality Impact Assessment	<p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer.</p> <p>No - consultation response</p>
	<p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer.</p> <p>No - consultation response</p>
	<i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i>
Corporate Plan	<p>#2 Place Raise Gravesham's economic profile</p> <p>#2 Place Positively promote sustainable development</p>
Crime and Disorder	Not applicable
Digital and website implications	None
Safeguarding children and vulnerable adults	None