

## Lower Thames Crossing - Adequacy of Consultation

### London Borough of Havering relevant representation

1. London Borough of Havering (LBH) would like to offer the following comments as part of an Adequacy of Consultation representation. Please note that a number of the points set out below have also been included in the joint representation submitted by Havering, Gravesham and Thurrock local authorities. For simplicity, the sections of the LBH response that are specific to LB Havering only have been highlighted in *italics*.

### Duty to consult – Planning Act 2008 (PA2008) – s42

2. *It is recognised that Highways England has undertaken a series of public consultation events both statutory and non-statutory in nature, in 2013, 2016, 2018 (Section 42) and two further non-statutory consultations in 2020.*
3. *It is recognised that LBH was a consultee and provided consultation responses accordingly.*
4. *Havering would like to bring it to the attention of the Planning Inspectorate (PINS) that some local residents and groups have expressed concerns with the way in which Highways England have carried out their consultations.*

### Duty to consult the local community - PA2008 – s47

- *Statement of Community Consultation*
5. *It is noted that the applicant consulted LBH informally on an early draft of the Statement of Community Consultation (SoCC) prior to formal public consultation taking place. Whilst table 4.1 of the Consultation Report recognises that LBH provided comments back on the draft SoCC (LBH did so on 21<sup>st</sup> March 2020), these comments have not been set out in table 4.2.*
  6. *It is noted that LBH was formally consulted on the draft SoCC. LBH submitted comments on the draft SoCC and the Council notes how these comments were taken into account in the final SoCC in table F2 of the Consultation Report.*
- *Supplementary and Design Refinement Consultation Process*
7. Whilst it is recognised that Highways England prepared and consulted on a SoCC, the manner in which Highways England carried out two public consultation exercises in 2020 has left LBH of the view that Highways England have not met its obligations under S47 Duty to consult the local community. In particular sub section (7) which sets out that the applicant must carry out consultation in accordance with the proposals set out in the document. The Statement of Community Consultation sets out the methodology for carrying out consultation with the public. The Council is of the view that it was not possible for the scheme promoter to deliver the consultations in line with the SOCC whilst restrictions were in place because of Covid-19.
  8. A Supplementary Consultation on the scheme took place between 29<sup>th</sup> January and 2<sup>nd</sup> April 2020 and a further Design Refinement Consultation held between 14<sup>th</sup> July

and 12<sup>th</sup> August 2020. Whilst these further consultations were welcome, the national restrictions on movement and association put in place in March due to Covid-19 meant that some local residents were unable to review the consultation material and provide a fully informed response.

9. The Supplementary Consultation took place when the Coronavirus Pandemic was taking hold of the country. Whilst it is recognised that there was some Public Information Events across locations in Havering, the Council is of the view that residents would have been reluctant to attend these because of being in close proximity to other people at these events, particularly once March had started, and some residents may also have already been self-isolating during the consultation period and therefore were not able to attend any of the events.
10. Whilst it is noted that there was opportunity to review consultation material on line, not all households have access or reliable access to the internet, and household devices are often shared which limits the ability to respond to a consultation.
11. In particular, the Libraries in Havering closed on 20<sup>th</sup> March 2020 and therefore it was not possible for local residents without access to the internet to examine the consultation documents.
12. The approach taken by Highways England appeared to be focussed on concluding the consultation (only a one week extension was provided to 2<sup>nd</sup> April), rather than providing respondents with a meaningful opportunity to engage on the new information presented.
13. The Council requested that the Supplementary Consultation be re-opened and that Highways England work with the Council to enable an effective, fair and proportionate consultation, to allow everyone to participate fairly in spite of the restrictions in place. This was rejected by Highways England.
14. Not reopening the consultation as suggested deprived Havering residents and the wider community of a proper ability to participate or feel that they could influence the project.
15. A further Design Refinement Consultation took place over a one month period in the summer of 2020, during a time when many restrictions were still in place because of the Pandemic. This again limited the ability for residents to be able to be kept fully apprised of all the proposals. For example, in Havering it was not possible to display any of the consultation material within public libraries. This was communicated to Highways England. Again, Highways England chose to continue with the consultation despite restrictions being in place that severely limited the public's ability to review the consultation material.
16. Undertaking just a month long consultation exercise on such an important matter, when such a serious national emergency was, and still is, taking place and where Local Authorities are focussing their time energy and effort at keeping local people safe and focussing on local recovery, is simply not adequate.

17. *It should be noted that the Cabinet Office guidelines suggests scheme promoters should consider longer consultation during holiday periods, and in this case the consultation took place partly during a school summer holiday period, but also a pandemic.*

18. *Cabinet Office guidelines states the following:*

*“when the consultation spans all or part of a holiday period, consider how this may affect consultation and take appropriate mitigating action, such as.... Extension of the consultation deadline beyond the holiday period”*

*and emphasises the importance of ensuring groups are aware of the consultation, have been targeted if appropriate, and that consultations should be proportionate, with the necessary information to respond.*

19. *The Council, as part of its formal response to the Design Refinement Consultation again requested that the previous Supplementary Consultation be reopened and the Design Refinement Consultation be extended to enable all interested parties to have a say on the proposed changes. Such a request was again rejected by Highways England.*

#### Duty to publicise - PA2008 – s48

20. *It is noted that Highways England published notices in the Romford Recorder and Yellow Advertiser with regards to the statutory consultation. These two publications were carried out at the request of the Council which is welcomed.*

#### Reviewing of technical documentation

21. Whilst it is noted that the scheme promoter shared technical documentation with stakeholders to comment on, this has been at a time when local authorities' resources have been severely constrained because of Covid-19. Furthermore in some cases the scheme promoter requested that any comments be provided within 15 working days of receipt of the information.

22. It was simply not practicable for Havering to provide comments on various technical documents within such a constrained time period, and whilst the borough welcomed the flexibility Highways England provided in submitting comments outside of those timescales, it put additional pressure on the borough.

23. A number of the draft technical documents circulated for comments were done so in or around other consultations being carried out by Highways England on the scheme, particularly the Design Refinement Consultation. This made allocating resources to review these various consultation materials very challenging.

## Missing Documents

24. There are a number of documents that Highways England have not presented to Havering to review in draft format. Despite several requests the Council was informed that such documents would not be made available until the application was accepted for examination by PINS.
25. Specifically, Highways England made available a number of chapters from the draft Environment Statement, however they did not provide the associated appendices which made it impossible to provide any meaningful comments on the draft documents ahead of the application being submitting to Planning Inspectorate.
26. Furthermore, Highways England were unable to provide LBH with a copy of the Transport Assessment, prior to the application being submitted. LBH will now only have an opportunity to review it if and when PINS decide to accept the application for examination. Clearly this severely limits the opportunity for LBH (and other authorities) to review and Influence its contents ahead of the examination.
27. LBH along with several other authorities wrote to Highways England requesting that the local authorities receive early viewing of the final DCO material ahead of the application being submitted to PINS.
28. Such a request being accepted would have assisted local authorities greatly in being able to have an “early start” in reviewing the anticipated substantial number of documents and other material. It would also have assisted LBH on planning ahead resources to support the Pre-Examination process. This request was rejected by Highways England which was very disappointing