



Meeting note

Project name	Lake Lothing Third Crossing
File reference	TR010023
Status	Final
Author	The Planning Inspectorate
Date	10 January 2018
Meeting with	Suffolk County Council
Venue	Telecon
Attendees	The Planning Inspectorate Richard Price – Case Manager Katherine King – EIA and Land Rights Advisor Alison Down - EIA and Land Rights Advisor Karen Robb – Case Officer James Bunten – Case Officer The Applicant Michael Wilks, Suffolk County Council Heidi Slater, Pinsent Masons Dave Edwards, WSP Brendan O’Hare, WSP Hywel Roberts, WSP
Meeting objectives	Draft document feedback meeting
Circulation	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.

Review of draft application documents

The Inspectorate’s detailed review of the draft documents provided by the Applicant is summarised in Appendix A to this meeting note. The content of Appendix A formed the basis for discussion at the meeting, which is recorded below.

Works Plans

The Applicant queried the level of detail of works that is required to be shown in the Works Plans, noting that the National Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 only state that the proposed route or alignment of a linear scheme is required to be shown. More detail about the individual components of each work (eg non-motorised user routes, drainage ponds, retaining walls, embankments, etc) was contained within the Applicant’s General Arrangement (GA)



drawings. The Inspectorate queried the status of the GA drawings, and advised the Applicant to consider whether the Works Plans, as they stood, would be likely to provide sufficient certainty to an appointed Examining Authority (ExA) about the spatial characteristics of the Proposed Development. The Inspectorate emphasised that the Works Plans should be proportionate in balancing necessary flexibility and clarity about the scheme that is being proposed.

The Applicant asked the Inspectorate to provide a 'best practice' precedent Works Plan for a linear scheme. The Inspectorate agreed to respond in this respect following the meeting.

Book of Reference/ Land Plans

The Applicant explained that two plot numbers within the Book of Reference (BoR) were described as 'not used'. This was a result of scheme evolution in respect of land assembly (eg where the two plots of land had been removed from the evolving draft Order limits) and the subsequently unused plot numbers had been retained within the BoR, but marked 'not used' to avoid any potential confusion about whether disruption in the plot number sequencing within the document might suggest that plots had been accidentally missed out. The Inspectorate agreed to seek advice on 'best practice' following the meeting, but advised the Applicant to explain its final approach in the introduction to the BoR.

The Applicant advised that due to the structure of the BoR, incorporating an extra column identifying the DCO Articles applicable to each plot would be difficult and time-consuming. The Applicant proposed alternative approaches, eg adding additional information to the BoR introductory text to explain how the wording used in the BoR plot descriptions could be cross-referenced to the relevant DCO Articles. The Inspectorate stated that its advice in this respect stood, but acknowledged that it would be for the Applicant to decide if an alternative approach could achieve the same objective. Where a satisfactory means of cross-referencing was not provided in the submitted BoR, an appointed ExA may ask for the BoR to be updated/ reformatted during the Examination.

Statement of Reasons

The Applicant agreed with the Inspectorate's suggestion for Annex B to be decoupled from the Statement of Reasons and provided with the application as a standalone document. The Applicant explained that it had designed Annex B with a view to it subsequently serving as a standalone document to be provided in response to the ExA's requests for updates on the status of negotiations with affected parties at intervals during the Examination.

Environmental Statement/ Habitats Regulations Assessment

The Applicant confirmed they had no further comments regarding the feedback received on the Habitats Regulations Assessment (HRA) however it requested clarity on the Inspectorate's preferred articulation and determination of appropriate distances of study areas within the Environmental Statement (ES). The Inspectorate advised that the study area sizes currently appear to be arbitrary and should be refined accordingly using professional judgment, once sites/ matters have been identified, with full justification



captured within the ES as to how the study area encapsulates all potential receptors and potential significant impacts.

There was discussion on how road signage as a form of mitigation should be assessed within the ES with the Applicant confirming that road signage is not being relied on as mitigation.

The Inspectorate highlighted that the Applicant's maintenance mitigation within the ES appeared to be very broad and advised that narrowing down definitions would remove doubt as to whether it had been appropriately assessed. There was brief discussion regarding 24 hour construction with the Inspectorate emphasising that assessing the worst case scenario is best practice.

The Inspectorate considered that the draft DCO and the ES have conflicting information with regard to the Control of Pollution Act and a s61 prior consent, with a prior consent being relied upon as a control in the ES whilst the dDCO states that a prior consent will not be applicable in certain circumstances. The Inspectorate advised that the draft DCO and ES needed to be consistent in all respects.

Draft Development Consent Order/ Explanatory Memorandum

In the context of the Inspectorate's views on the role of Explanatory Memorandums (EM) and the role of precedent drafting, there was discussion regarding how the evolution of the draft DCO (prior to submission of the application) should be presented in the submitted application. The Inspectorate advised that the evolution of the draft DCO (eg departure from model provisions) should be captured within the EM, and confirmed that the Applicant should not submit a track-changed version of the draft DCO with the application.

The Applicant acknowledged the Inspectorate's wider commentary about the draft EM and requested a 'best practice' precedent to review.

Project update

The Applicant advised that it was still on course for submission in Spring 2018 and briefly updated the Inspectorate about ongoing negotiations with Associated British Ports (ABP).

Specific decisions/ follow-up required?

The following actions were agreed:

- The Applicant to provide draft copies of its General Arrangement drawings for information only.
- The Inspectorate to consider providing 'best practice' precedents of Works Plans for linear schemes and a 'best practice' EM.
- The Inspectorate to provide 'best practice' advice for identifying unused plots within the BoR.

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Draft documents review

The following table comprises the comments made by the Planning Inspectorate about the form and content of the following draft application documents provided by the Applicant (Suffolk County Council):

- Draft Book of Reference
- Draft Land Plans
- Draft Works Plans
- Draft Statement of Reasons
- Draft Habitats Regulations Assessment Screening Report
- Draft Environmental Statement chapters 1 to 7

The review of draft documents forms part of the Planning Inspectorate's Pre-application service for applicants¹. The commentary included in this document comprises advice issued by the Planning Inspectorate under section 51 of the Planning Act 2008. It does not constitute legal advice upon which the Applicant (or others) should rely.

¹ <https://infrastructure.planninginspectorate.gov.uk/application-process/pre-application-service-for-applicants/>

Book of Reference (BoR) and Land Plans

- The Examination will be assisted by the addition of a column to the BoR which identifies the DCO Article(s) applicable to each plot listed. Note Annex D to MHCLG's 'Planning Act 2008: procedures for the compulsory acquisition of land' guidance (para 10) states the BoR should cross-refer to the relevant Articles contained in the draft DCO.
- Plots numbers 3.19 and 3.26 are described as 'not used'. This needs to be explained.

Works Plans

- The Order Limits are not expressed on the Key Plan. This does not assist reading.
- The weighting of the red line on the individual sheets of the Works Plan makes it very difficult to distinguish the Order Limits.
- Do the Works Plans show sufficient detail and establish sufficient certainty in reflecting individual elements of the works described in Schedule 1 of the draft DCO? eg the location of Work no. 1(a)(iv) cannot be ascertained, construction compounds are not identified, embankments/ retaining walls, works in Lake Lothing etc are not identified.

Statement of Reasons (SoR)

- Appendix B (Communications/ negotiations with owners of interests in land) will usefully be provided as a standalone 'living' document. This will allow for the information to be updated in the course of the examination without necessitating multiple updates to the SoR itself, see for example: [https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010006/TR010006-000793-9.6%20Compulsory%20Acquisition%20Negotiations%20Status%20Report%20\(R%20Rev%20E\).pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010006/TR010006-000793-9.6%20Compulsory%20Acquisition%20Negotiations%20Status%20Report%20(R%20Rev%20E).pdf)
- eg para 6.2.7 – pursuant to the provision of the Growth and Infrastructure Act 2014, the process of Ministerial certification is now obsolete. The case under s127 of the PA2008 will be examined by the appointed Examining Authority and a recommendation made to Secretary of State for Transport on that basis.
- Para 8.2.11 – what will be the position if s135 consent (under PA2008) cannot be delivered with the application documentation? Explain?

Draft Habitats Regulations Assessment (HRA) Screening Report

DRAFT HRA REPORT SECTION/PARA	COMMENT
-	The Applicant is strongly advised to refer to the guidance on the recommended approach to HRA relevant to a NSIP application contained in the Planning Inspectorate's 'Advice Note 10 - 'Habitats Regulations Assessment' (Planning Inspectorate's Advice note 10 (AN10)).
-	Although it is a matter for the Applicant to determine the format and title of the HRA report submitted with the DCO application, it is recommended that the advice on this matter in AN10 is followed. In relation to this project, such a report as that subject of this review would take the form of a 'No Significant Effects Report' (NSER).
-	The Applicant is strongly advised to consult Natural England (NE) in relation to this report and to agree (where possible) the scope of the assessment, the range of impacts that should be considered, and the conclusions.
-	It would assist the ExA and Secretary of State (SoS) and other parties to the Examination of the Nationally Significant Infrastructure Project (NSIP) application if the pages of the HRA report were numbered.
1.1.1 and other paras	The Applicant should be aware that the Habitats Regulations were updated in November 2017, and should ensure that the approach followed is in accordance with the requirements of the 2017 regulations and that all references in the report to the 2010 regulations are updated.
1.1.2	The Inspectorate notes the reference in the report to 'Sites of European Importance for Nature Conservation'. This is not a generally recognised term and the Applicant may wish to use an alternative form of words to describe Natura 2000 sites.



2.1.1	The Inspectorate notes the reference in the report to HRA as 'Habitats Regulations Appraisal'. HRA is more commonly termed 'Habitats Regulations Assessment', and although it is a matter for the Applicant, you may alternatively wish to use that terminology.
2.1.5 and other paras	'Habitat Regulations' should be 'Habitats Regulations' (and reflect the 2017 version, as mentioned above).
2.1.6	References to Directive 79/409/EEC should be replaced with references to Directive 2009/147/EC on the conservation of wild birds ('Birds Directive'), which is the codified and consolidated version.
2.1.6	Natura 2000 sites include a number of other types of European site, which are not referenced. In addition other site types are also treated as European sites according to government policy. The Applicant is referred to paragraph 1.4 of AN10, in which these other site types are identified.
2.1.6	Reference is made to National Planning Policy (PPS9). This is no longer extant and has been replaced by the National Planning Policy Framework and Planning Practice Guidance. Regard should be had to these documents together with the National Networks National Policy Statement.
2.2.2	The Applicant is referred to AN10 for examples of additional sources of guidance.
2.2.4	It should additionally be noted that where a project must be carried out for imperative reasons of overriding public interest (IROPI) compensatory measures must be secured, as recognised in paragraph 2.2.2 of the report.
3.1.1	Reference is made to Footnote 1, which relates to the Habitats Directive. It is assumed that this should refer to Footnote 2, which relates to the EC guidance quoted.
Figure 1.1 and 6.1	These have not been included in the report.



Section 4	The description of the Proposed Development is not very certain at this stage and refers to a number of options being under consideration. The Inspectorate understands that the design of the Proposed Development is still to be refined. Where alternative options are presented in the DCO application a worst case scenario should be assessed and the parameters applied should be clearly identified in the HRA. The description in the HRA report should be consistent with that in the ES and the DCO.
Section 4.12	The Inspectorate assumes that this section of the HRA report is yet to be finalised.
Section 4.14	Only five European sites are identified in this section, although eight are described in Section 5. The HRA report should consistently reflect all sites addressed in the assessment.
-	The study area for the assessment is not specified, although a reference is made in paragraph 5.2.2 to a '30km buffer from the proposed scheme'. The study area should be clearly defined and justified, with reference to the zone of influence of the Proposed Development, in the HRA report, and agreed with NE, if possible. The Applicant should ensure that it is sufficiently broad to encompass all those European sites, and their qualifying features, that could be significantly affected by the Proposed Development.
4.14.1 and other paras	The 'South North Sea candidate Special Area of Conservation' (cSAC) is identified. This should be titled the 'Southern' North Sea candidate Special Area of Conservation'.
Section 5	As recommended in AN10, it would assist the ExA and SoS if the Natura 2000 site data sheet for each site considered (where available) is submitted with the HRA report. The information in the report should be consistent with the information contained on the data sheet.
5.5.1 and Section 5.6	The Inspectorate suggests that, for clarity, the Outer Thames Estuary Special Protection Area (SPA) and the Outer Thames Estuary pSPA Extension are separated out in the list of sites considered in the assessment and then addressed individually throughout the report.
5.1.2	All sites considered in the assessment should be included in the figure showing their location. The study area should be sufficiently broad to encompass the Alde-Ore Estuary SPA and this site should be shown



	on the figure.
Section 5	<p>The information on the European sites includes omissions and errors. For example:</p> <ul style="list-style-type: none">• the Broads SAC EU code is incorrect in Section 5.2 (although it is correctly identified in Section 5.1 above);• in relation to the Broads SAC the Fen Orchid and Ramshorn snail are identified as qualifying but not primary features although they are primary features, and Desmoulin's whorl snail is not identified although it is also a primary feature;• under the 'Vulnerability' section in relation to the Broadland SPA, changes in abiotic conditions are listed as Natura 2000 site data Threats code M02 instead of M01;• in relation to the Outer Thames Estuary SPA, common tern and little tern foraging areas have been omitted from the key features; and• in relation to the Outer Thames Estuary SPA, G04 has been omitted from the list under 'Vulnerability'. <p>The information in the HRA report should be comprehensive and accurate and should reflect the information contained in the Natura 2000 site data sheet.</p>
5.4.3	The qualifying features of the Broadland Ramsar site should be specifically identified rather than simply referring the reader to the Broads SAC list of features.
5.4.6	The Applicant should agree with NE whether it is appropriate (in the absence of conservation objectives for Ramsar sites) to apply the Broadland SPA conservation objectives to the Broadland Ramsar site.
5.8.4	This information relates to the Outer Thames Estuary SPA and appears to duplicate paragraph 5.6.3, so it is assumed that this was included here in error.
Section 6	The screening assessment should consider each European site separately rather than address them all together.

Section 6.3	The conclusions on potential impacts should be fully substantiated and agreed, where possible, with NE. In their scoping consultation response, NE raised the potential for Lesser Black Backed Gulls related to the Alde-Ore Estuary SPA to be present in the area of the Proposed Development; and for Little Tern breeding within the Benacre to Easton Bavents SPA to feed in the Lake Lothing channel. The Inspectorate recommends that these points are addressed in the report.
6.3.9 and 6.3.10	As the design of the new bridge and the likely construction methods are still under consideration, the potential impacts will be unknown. In the absence of more certain information on the Proposed Development, the assessment should be based on a worst case scenario. Further justification should be provided in the report for the conclusion that sediment re-suspension is unlikely to result in significant effects on any European site.
6.3.11	It is noted that information will be provided in relation to the assessment of the impacts of sediment dredging.
Section 6.3	In relation to the potential impacts, all measures that are to be relied upon to avoid significant effects, such as, for example, pollution control measures and construction methods, should be identified and described in the HRA report, and it should be clearly explained how they will avoid or reduce any impacts.
-	The Applicant is referred to the template matrices that are appended to AN10. A matrix should be completed for every European site that is considered in the assessment and appended to the HRA report. If matrices are not submitted, are inaccurate, or omit the requested information, the ExA will request completed matrices/revised versions during the Examination.
Section 6.4	Further information is required in relation to the assessment of in-combination effects. The study area should be defined and justified, and the proximity to the Proposed Development of the developments considered should be specified. The scope of the assessment should be agreed, where possible, with NE and the relevant local planning authorities. Further justification and evidence needs to be provided for the conclusion that there are unlikely to be

	significant in-combination effects. If there is potential for any effects of the Proposed Development, regardless of whether they are concluded not to be significant alone, consideration must be given to whether they could contribute to a significant effect in combination with other developments.
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Draft Environmental Statement (ES) Chapters 1 to 7

DRAFT ES SECTION/PARA	COMMENT
Works Plan	To aid navigation the Works Plans should include road and building names, particularly where these are referenced in the ES.
Plate 1-1	The Plan does not label the existing bascule bridge or the A roads. A key may also be useful to show that the pink dots represent train stations.
General	Where abbreviations are used they should be clearly explained to the reader on first use.
General	Guidance documents to which references are made should be cited in full in the ES either through a footnote or in the bibliography.
1.2.29	Reference is made to Volume 1. It is assumed this should be identified as Volume I.
Table 4-1	It may assist the reader if the options that have been taken forward and therefore explained/assessed in further detail are identifiable in the table, for example, in bold type.
Table 4-4	It would be helpful to the reader if Mutford Bridge was clearly labelled on the plans.
General	Where businesses/buildings are referenced it would assist the reader if their use/business type was provided for context.



Chapter 5	It is stated that a grain silo on the northern side of Lake Lothing and the Nexen building on the south side of Lake Lothing are both to the east of the Proposed Development area. As these buildings are not labelled on any plans this cannot be confirmed but the Planning Inspectorate (the Inspectorate) queries whether both of these buildings are to the east
Section 5.3	Under wider land uses, it may be helpful to mention the existing bascule bridge and the bridge at Oulton Broad.
Section 5.4	The study area for the assessment of the potential impacts of the Proposed Development on designated sites should be defined according to the potential for likely significant effects on a site. Sites/matters should only be scoped out of the assessment based on the potential for likely significant effects, not according to an arbitrary distance from the Proposed Development. This principle applies equally to all the assessments.
5.4.6 – 5.4.9	These are duplicated paragraphs.
6.2.2	Reference is made to the 'Heavy Load Route' between Lowestoft and Sizewell Nuclear Power Station. It would be helpful to identify this on a plan.
6.2.3	The ES should ensure that the parameters used for each assessment identify the worst case scenario and are justified in the ES.
6.2.6	It is not stated when the proposed vessel assessment will be undertaken. The Inspectorate would expect this to be undertaken prior to finalising the ES so that it may inform the conclusions.
Plate 6-1 and 6-2	These images appear to show the bridge sliding backwards rather than tilting on its axis. This should be clarified in the ES and the mechanism should be explained in the Proposed Development description.
6.2.13	The Planning Inspectorate assumes that the conclusions of the ground investigations will be known prior to the finalising of the ES.
6.2.14	The draft ES appears to suggest that the quantities of material imported are not known at present. The Applicant should ensure that the worst case scenario is assessed where information is limited.

6.5.3 and 6.5.6	Any signage or landscaping required for the Proposed Development should be identified within the red line boundary and the potential impacts assessed in the ES.
6.6.10	Reference is made to an 'interim CoCP' while in the draft DCO provided reference is made to an 'outline CoCP'. Terminology should be consistent between the ES and the draft DCO.
6.6.11	Reference is made to the appointment of an Ecological Clerk of Works. This should be secured through the draft DCO.
Plate 6-6	This plate is difficult to read due to its resolution. Furthermore, some context to the plate may assist the reader.
6.6.16	Reference is made to traffic management but no reference is made to a Traffic Management Plan. Should such mitigation be required, the relevant plan should be secured through the draft DCO.
6.6.16	Reference is made to the likely requirement for 'limited 24 hour construction'. More detailed information on when this would be required will need to be provided in the ES and, where relevant, this should be taken into account in the assessments.
6.6.16	Reference is made to 'possible dewatering activities'. The ES should identify whether a licence is required for such works and whether consent has been provided by the appropriate body.
6.6.20	The Inspectorate expects to see scale drawings, rather than sketch drawings, showing components such as cofferdams.
6.6.24	Reference is made to the need for a COPA s61 consent, however it appears that the draft DCO then dis-applies part of this Act. The ES and the draft DCO should be consistent and such matters should be explained in the Explanatory Memorandum, especially where it is not a standard approach.
6.7.3	The ES should ensure that all maintenance activities are assessed in the ES. The maintenance works included in the draft DCO appear to be more extensive that those listed here. The information should be consistently reflected in both documents.
Schedule 1	The Authorised Development is made up of six works and a number of other works. The Applicant should



	ensure that all these are required and justified. The ES should assess all potential works included in the DCO.
DCO	Reference is made to the County Planning Authority discharging requirements, although it is not consistent throughout the DCO. It is more common for the Local Planning Authority to undertake this role. Should the County Planning Authority remain the authority named in the DCO, this should be explained.
DCO	Reference is made to plans and works being in general accordance with draft plans. An example of this is Article 3 which states that the authorised development must be designed and implemented in general accordance with the general arrangement drawings. This provides little certainty on what is to be delivered. The Applicant should consider the appropriateness of the use of such phrases.
DCO – Schedule 2 Requirements 6 and 7	The Applicant is advised to ensure that all appropriate bodies are included in the discharging of conditions. For example, in relation to Requirement 6, consideration should be given to whether the Environment Agency should be consulted, and in relation to Requirement 7, whether Associated British Ports (ABP) and NE should be consulted.
DCO Schedule 2 Requirement 10	The Article requires sign off ‘in consultation with the local highway authority or the EA (as appropriate).’ This allows for greater flexibility than may be required and should be justified in the Explanatory Memorandum.