

**From:** Bradbury, Mark

**Sent:** 09 March 2023 14:52

**To:** Church, Eleanor <[REDACTED]@planninginspectorate.gov.uk>

**Cc:** Lower Thames Crossing <LowerThamesCrossing@planninginspectorate.gov.uk>; Blackmore, Ted [REDACTED]@planninginspectorate.gov.uk>; Black, Colin [REDACTED]@thurrock.gov.uk>; Wake, Ian [REDACTED]@thurrock.gov.uk>; Tyson, Luke [REDACTED]@thurrock.gov.uk>; Nicholson, Leigh [REDACTED]@thurrock.gov.uk>

**Subject:** RE: LTC: Procedural Decision from ExA to Thurrock Council Ref TR010032

Eleanor,

Further to the email below I am now responding to the second request in the procedural decision.

### **Planning Performance Agreements (PPAs) Relating to Thurrock Council**

- **whether in respect of any PPA in force, it is currently able to draw down funds and, if it is unable to in whole or part, why it cannot;**

There is currently no PPA in force as the previous one technically expired when the DCO was submitted. Both National Highways and DfT have confirmed that they will continue to honour the agreement through the remainder of the process.

- **if any prospective PPA is or could be under consideration, whether there are any particular issues which appear likely to inhibit conclusion of it or prevent access to funds and, if so, what those issues might be; and**

Just under £700k is currently outstanding from National Highways to be paid for Q2 and Q3 2022-23 (£274,876 and (£412,744) and this is awaiting answers to further National Highways questions. The consultant team has been on standby pending a decision on whether further expenditure by the Council is lawful under S. 114 of the Local Government Finance Act 1988 and therefore we have not been in a position to respond. This has now been resolved so we would hope to respond to the questions and for payment to be released soon.

- **if there are difficulties accessing existing or prospective PPA funds, what in summary terms are the implications for Thurrock Council's participation in the pre-Examination and/ or Examination?**

The scope of the PPA has recently been extended by agreement with National Highways and DfT however this latest agreement does **not** cover costs relating to the following areas

- 1 The procurement and use of legal advisors including KC and junior Counsel throughout the Pre-Examination and Examination periods
- 2 Attendance at Preliminary Meeting
- 3 The Council's written responses to ExA written questions directed to the Council and review of NH responses to their written questions
- 4 Expert witness attendance at the Examination and their submissions

National Highways and DfT have stated 'What we haven't agreed to fund are the [...]

activities of Thurrock representing themselves into the process, and the size & quantum of which would be wrong for us to be involved with. Typically these areas 2 & 3 are done by officers of the local authority. Similarly if needed 1 & 4 would be funded by a local authority. It is extremely rare that a local authority appoints a KC to represent them due to the nature of the process, but not unheard of. However it is not for NH/LTC to comment on whether this is appropriate or not in this case.'

Due to the scale, complexity and significance of this project Thurrock Council has not had and will not have the skills and capacity to manage the process using existing staff. The Council has therefore resourced this using contract staff and external consultants. There will therefore be a significant cost to the Council in being properly engaged in the pre-Examination and Examination as a result. It is our view that whilst the extension of the scope of the PPA is welcome, the approach by National Highways and DfT does not fully reflect the extraordinary nature of this DCO and its impact on Thurrock. We have allocated funding to address the gap but this places a significant financial burden on the Council that it can ill afford at this time.

The need to put the consultant team on standby pending resolution of the S.114 position will impact upon the Council's participation in the pre-Examination and Examination and we will be writing separately to request an extension to the process.

Please acknowledge receipt of both responses.

Thanks

Mark

**Mark Bradbury | Director of Place**

Thurrock Council, Civic Offices, New Road, Grays, RM17 6SL

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**From:** Bradbury, Mark

**Sent:** 06 March 2023 12:42

**To:** Church, Eleanor <[REDACTED]@planninginspectorate.gov.uk>

**Cc:** Lower Thames Crossing <[LowerThamesCrossing@planninginspectorate.gov.uk](mailto:LowerThamesCrossing@planninginspectorate.gov.uk)>; Blackmore, Ted <[REDACTED]@planninginspectorate.gov.uk>; Black, Colin <[REDACTED]@thurrock.gov.uk>; Wake, Ian <[REDACTED]@thurrock.gov.uk>; Tyson, Luke <[REDACTED]@thurrock.gov.uk>; Nicholson, Leigh <[REDACTED]@thurrock.gov.uk>

**Subject:** RE: LTC: Procedural Decision from ExA to Thurrock Council Ref TR010032

Dear Eleanor,

Thank you for forwarding the link. I can confirm that this has now also been seen by the Acting Chief Executive. I am now responding regarding the first request in the Procedural Decision.

**Request for Confirmation of the Appropriate Person(s) and Processes for Authorised Action by and on behalf of Thurrock Council**

I note that the ExA has made a formal Decision to request that the Thurrock Council Commissioners in consultation with any such elected Members or officers of the Council with relevant ongoing powers or duties in relation to the Lower Thames Crossing project write to it, setting out responses to the following questions:

I am responding on behalf of Thurrock Council as follows:-

- Does Thurrock Council intend to participate in the pre-Examination stage (making arrangements for the Examination) or in the Examination stage going forward?

Thurrock Council does intend to participate in the pre-Examination Stage and in the Examination Stage.

- If it does, is the resolution of Thurrock Council's positions in respect of the Lower Thames Crossing application or any part of it for the purposes of the Examination a matter that falls within the remit of Commissioners' duties, or may they do so following decisions by or for the SoSLUHC on the question of whether that remit should be extended?

This is not a matter that falls within the remit of Commissioners' duties nor do we expect it to fall into extended powers.

- If not, please indicate those functions relevant to the Lower Thames Crossing that are being discharged by elected Members of the authority and/or by officers of the authority under delegated powers.

All functions will be discharged by officers under delegated powers in consultation with the Portfolio Holder for Growth

- In respect of either scenario above, please also advise the ExA as follows:

- To which person(s) at Thurrock Council, Essex County Council or as otherwise authorised by the Commissioners should the ExA appropriately address any requests for contributions of opinions or evidence, or requests for information relating to the Examination of the Lower Thames Crossing Examination?

All requests should be directed to Mark Bradbury, Interim Director of Place

- From which person(s) at Thurrock Council, Essex County Council or as otherwise authorised by the Commissioners should the ExA expect to receive duly authorised submissions or responses to its requests?

All authorised submissions should come from either Mark Bradbury, Interim Director of Place or Leigh Nicholson, Assistant Director, Planning, Transport & Public Protection

- Please confirm that you will maintain a watching brief over these matters and, should the remit of the Commissioners change during the pre-Examination or the Examination in a way that bears on the Examination process or on participation by Thurrock Council, please write to the ExA to advise of the change and its effects.

We will maintain a watching brief and advise the ExA of any changes

I will respond on the PPA points separately later this week.

*Mark*

**Mark Bradbury | Director of Place**

Thurrock Council, Civic Offices, New Road, Grays, RM17 6SL

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