

Response to the Secretary of State's consultation letter dated 28 February 2025 following the applicant's submission of a revised funding statement and associated documents which provide clarification following the announcement made by the Chancellor of the Exchequer on 29 January 2025 regarding funding arrangements for the Proposed Development.

Thank you for providing the opportunity to comment on the revised [Funding Statement](#) and proposed amendments to the draft Development Consent Order.

Synopsis of the applicant's submission

The purpose of the revised Funding Statement is to explain the implications of the statement made by the Chancellor of the Exchequer on the 29 January 2025 that Government is currently looking at alternative models of financing the scheme, potentially involving the private sector rather than direct public funding.

This is to comply with the requirements of Regulation 5(2)(h) of the [Infrastructure Planning \(Applications: Prescribed Forms of Procedure\) Regulations 2009](#) and in accordance with the [Department for Communities and Local Government \(2013\) Planning Act 2008: Guidance Related to Procedures for the Compulsory Acquisition of Land](#). Regulation 5(2)(h) states that any application for development consent must contain a statement to indicate how an Order that contains the authorisation of compulsory acquisition is proposed to be funded. The 2013 Guidance contains the following at paragraphs 17 to 18:

17. Any application for a consent order authorising compulsory acquisition must be accompanied by a statement explaining how it will be funded. This statement should provide as much information as possible about the resource implications of both acquiring the land and implementing the project for which the land is required. It may be that the project is not intended to be independently financially viable, or that the details cannot be finalised until there is certainty about the assembly of the necessary land. In such instances, the applicant should provide an indication of how any potential shortfalls are intended to be met. This should include the degree to which other bodies (public or private sector) have agreed to make financial contributions or to underwrite the scheme, and on what basis such contributions or underwriting is to be made.

18. The timing of the availability of the funding is also likely to be a relevant factor. Regulation 3(2) of the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010 allows for five years within which any notice to treat must be served, beginning on the date on which the order granting development consent is

made, though the Secretary of State does have the discretion to make a different provision in an order granting development consent. Applicants should be able to demonstrate that adequate funding is likely to be available to enable the compulsory acquisition within the statutory period following the order being made, and that the resource implications of a possible acquisition resulting from a blight notice have been taken account of.

The revised funding statement includes details of two options (beyond direct public funding) of the project based on the inclusion of private investment in whole or in part. The options now being looked at are:

- a. full public funding under the Road Investment Strategy (**Full Public Delivery model**);
- b. full public funding for the tunnels, with the connecting roads being delivered and funded by the private sector under Design, Build, Finance, Operate and Maintain (DBFOM) contracts (**Public Tunnel and DBFOM Roads model**); and
- c. a regulated private entity model, under which a private sector body finances, builds and operates the Project in its entirety in perpetuity, subject to the oversight of an independent regulator (**Regulated Private Entity model**).

The estimated capital costs of each option are set out in Table 2.1 of the revised Funding Statement as follows. Whilst these have taken into account the two year delay in implementing the scheme following the Written Ministerial Statement (9 March 2023), it is assumed that no allowance has been made for any additional changes to the scheme that may be required to further mitigate its impacts or any improved s.106 offer.

Table 2.1 Current estimated capital costs for each funding option

	1. Full Public Delivery	2. Public Tunnel & DBFOM Roads	3. Regulated Private Entity
Total capital funding required (25/26 onwards)	£8.0bn	£9.0bn	£8.2bn
Public capital funding (25/26 onwards)	£8.0bn	£4.7bn ⁵	£1.9bn
Private capital funding (25/26 onwards)	-	£4.3bn	£6.3bn
Total estimated capital cost (incl. historical)	£9.2bn	£10.2bn	£9.4bn

An allowance has been included within the above capital costs to cover compulsory acquisition, blight and other forms of compensation. These would be covered by public funds in each instance, covering the requirement under Regulation 5(2)(h).

There would then be differences in how the infrastructure would be owned and managed under each option.

Under the **Full Public Delivery Model**, the project would be fully funded by Government through its capital programme under the Road Investment Strategy (RIS). The revised funding statement sets out a series of RIS documents that provide clarity on the availability of funding for acquisition and delivering the project. Under this option, the infrastructure would remain in public ownership, with tolls going direct to the Department for Transport (DfT) to support (at least in part) its management and on-going revenue expenditure. This would not prevent DfT from contracting out the management of the facility and the collection of tolls as per the Dartford Crossing.

Under the **Public Tunnel and DBFOM Roads model**, the capital costs of delivering the tunnel (which is presumably the highest risk element) would be funded by Government with the approach roads funded by one of more private sector partners. Government would also cover a number of other costs, including compulsory acquisition and preliminary works etc.

This would be a fixed-price contract where a private sector Special Purpose Vehicle (SPV) would finance, construct and operate the roads over a 25 – 30 year contract, after which the assets would return to Government. Potentially, there could be a number of DBFOMs (or multiple SPVs?) delivering different sections of the road network.

In terms of revenue, a similar protocol arrangement to that used at the Dartford Crossing would apply. Any toll revenue and related charge collection cost would go direct to the Department for Transport, as with the Full Public Delivery Model. Presumably, the SPVs would then receive a return from Government under the terms of the contract.

The revised Funding Statement states that there is likely to be market interest in this option and that there are precedents for it being used elsewhere such as at the Silvertown Tunnel and Mersey Gateway Bridge.

Under the **Regulated Private Entity model**, a regulated private entity would have an obligation under licence to finance and build the Project in its entirety and to operate the Project in perpetuity. It is unclear under this model who would actually own the infrastructure to be delivered and/or any associated infrastructure from which the private sector would derive tolls and be responsible for on-going maintenance.

Road user charges from the Project and the Dartford Crossing would be received by the entity. Under this option, an economic regulatory regime would need to be established, whereby an independent regulator would set an allowed revenue income for the regulated private entity to cover its operating and financing costs.

The intention of this would be to protect road users and to guard against excessive regulated private entity profits. However, new primary legislation is likely to be needed to facilitate this model, should government choose to follow this route.

An estimated £1.9bn public funding would still be required under this model to cover:

- Pre-construction enabling works for the entire Project up to the completion of the regulated private entity transaction (including utility diversions), design work up to a developed scheme design (including initial detailed design of key elements, archaeology, ecology and consents);
- Allowance for compensation payments in respect of compulsory acquisitions of land for the entire Project (Tunnel and Roads); and
- Delivery of the economic regulatory regime, including the establishment of the independent economic regulator.

Under this option, the regulated private entity would collect any tolls or other revenue from both the Lower Thames Crossing and the Dartford Crossing to cover its operating and financing costs, which would be regulated by an independent economic regulator.

Whilst VAT would apply to some journeys, the applicant considers this would only impact on a limited number of users as it would only represent a small part of total journey costs. As such, it is not considered that this would greatly impact on the overall number of journeys made because demand is relatively inelastic. The applicant therefore considers that it would not be proportionate to re-run transport modelling or the economic appraisal.

The revised Funding Statement states that there is likely to be market interest in this option because of recent market activity in delivery of capital projects such as the Thames Tideway Tunnel, Carbon Capture Usage and Storage, and Sizewell C.

In addition to the revised Funding Statement, the applicant has submitted a revised [Road User Charging Statement](#).

This sets out that the intention is to maintain parity between tolls at Dartford and Lower Thames Crossing to encourage customers to take the most appropriate route based on journey factors rather than being distorted by the level of charge and to ensure that they can be managed in tandem.

The impacts appraisal for the project is based on an assumption (agreed with the Department for Transport) that charges to road users will remain constant in real terms over the Project's appraisal period starting from a 2014 base date (revised Funding Statement at 4.1.5 and revised Road User Charging Statement at 2.1.9).

Whilst this assumption was made for the purposes of project evaluation, it is unclear whether any controls would prevent a subsequent increase in user charges beyond this provided there was parity with charges at the Dartford Crossing under the [2013 Dartford-Thurrock Charging Order](#) or any subsequent amendment (draft Development Consent Order (v.20) at Schedule 12 (3)(2)).

A discount scheme would apply for local residents. Gravesham residents would be eligible for discounts for the use of the Lower Thames Crossing, Dartford residents would continue to be eligible for discounts for Dartford Crossing, and Thurrock residents would be eligible for discounts for both crossings. Thurrock residents would only need to apply once and pay one account fee in order to benefit from discounts at both crossings.

A revised draft [Development Consent Order](#) (Version 20) has also been submitted which includes a small number of changes particularly at:

- Article 8(3) relating to the transfer of the benefits of the Order from National Highways to another third party;
- Article 45 relating to the transfer of road user charging powers to a third party from the Secretary of State, the power to vary or revoke such a transfer and requiring the Secretary of State's consent where a person or body wishes to transfer any such power; and
- Schedule 12 (1) which inserts additional text that recognises the ability to modify the charging regime by routes other than the 2013 Dartford-Thurrock Charging Order.

Gravesham Borough Council's comments

1. Whilst the primary purpose of the revised Funding Statement is to meet the requirements of Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms of Procedure) Regulations 2009 and to comply with the Department for Communities and Local Government (2013) Planning Act 2008: Guidance Related to Procedures for the Compulsory Acquisition of Land, the differing options for delivery and funding are capable of being a material considerations in the determination of the DCO application for another reason.

Section 104(3) of the Planning Act 2008 states that the Secretary of State must determine any application in accordance with any relevant national policy statement, except to the extent that subsections (4) to (8) apply. Section 104(7) applies where the Secretary of State is satisfied that the adverse impact of the proposed development would outweigh its benefits and provides sufficient grounds for refusal.

In reaching any such conclusion, the Secretary of State will (amongst other things) have regard to the monetised Benefit Cost Ratio (BCR) of the scheme produced as part of the business case/economic appraisal using the WebTAG Treasury Green Book compliant methodology. Basic principles of how this is factored into the determination of such applications were rehearsed in the recent *Mair Bain* (2024) judgment [\[2024\] EWHC 2216 \(Admin\)](#).

It is a matter for Government to decide whether it wishes to proceed with a project having regard to overall cost and whether a project represents value for money, this includes any decision in respect of whether that project should be publicly funded or includes an element of private finance.

However, in exercising a planning function under section 104 of the 2008 Act, it is still necessary for the Secretary of State to be in possession of robust up-to-date evidence to make a judgment as to whether or not the adverse impact of the project does or does not outweigh its benefits. Similar considerations will apply where the Secretary of State is complying with any statutory duty under the [Infrastructure Planning \(Environmental Impact Assessment\) Regulations 2017](#).

In this instance, the reasonable worst case scenario of the funding options in terms of the capital budget is the **Public Tunnel and DBFOM Roads model** at £10.2bn – some 11% higher than the cheapest option.

Given there is a significant difference between the estimated capital cost depending on what funding option is chosen, information on the relative Benefit Cost Ratios (BCR) of the scheme under the different funding options should be provided by the applicant.

To offset its impact of the Lower Thames Crossing locally we are of the view as previously expressed that investment and mitigation in the Borough is of paramount importance, including for example LTC contributing to, or directly operating, a reinstated Tilbury Ferry, which would provide a key route for pedestrian and cycle cross river journeys including workforce movements for this project.

2. The revised Funding Statement assumes that user charges will remain constant in real terms, with there being parity with charges at Dartford. Whilst this assumption was agreed with the Department for Transport for the purposes of project evaluation, there does not appear to be anything in the draft Development Consent Order that requires user charges to remain constant in real terms, only for there to be parity with charges at Dartford.

Further clarity is needed regarding the assumption that user charges will remain constant in real terms realistic if a private finance input of £4.3bn – £6.3bn be required. As in keeping with other financial investments, any investors will expect a commercial return on their investment.

The above is important because if user charges need to be higher, this will add additional cost burdens to the Borough's residents and businesses. In addition to support the private finance input it could have an impact on the transport/economic benefits modelling and the scheme BCR. This has the potential to go beyond the VAT implications of the Regulated Private Entity model set out in the Revised Funding Statement/User Charging Statement and could relate directly to the Secretary of State's evaluation against section 104(7) of the 2008 Act.

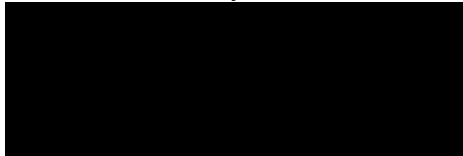
3. Conversely, if user charges are held constant in real terms under all funding options and there is a shortfall in income to support private finance, any additional cost would need to be met in some way. Whilst the revised Funding Statement says that the SDV would retain all fees and income from operations under the Regulated Private Entity model, additional revenue support from Government does not appear to be precluded. If insufficient revenue is generated by tolls and charges to fully fund the private finance input, the implications need to be understood and factored into the scheme BCR under different scenarios so that the Secretary of State can make the evaluation under section 104(7).

4. The Examination, draft Development Consent Order and plans considered the status of the various road links and (inter alia) who would be responsible for them. Would this change under the Public Tunnel and DBFOM Roads model or Regulated Private Entity model? If this is potentially the case, how would this be dealt with post determination? Are there any implications in terms of road safety or incident management between the three

funding options that were not considered at Examination – particularly if under the Public Tunnel and DBFOM Roads model there are multiple DPFOMs?

5. The Council has made previous submissions in respect of the local resident discount scheme only applying to Lower Thames Crossing for Gravesham residents and not the Dartford Crossing. The opposite would apply to Dartford residents; whilst Thurrock residents would benefit from discounts at both crossings. This is considered inequitable and the resident discount should apply to both Dartford and Gravesham residents at both crossings. This is because residents of both boroughs would be expected to use either crossing should there be an incident on the Strategic Road Network.

Yours Sincerely,



Shazad Ghani, Head of Planning