

Appendix A

RIVER THAMES SCHEME: RUNNYMDE BOROUGH COUNCIL - DIVISION OF ROLES AND RESPONSIBILITIES

INTRODUCTION

- 1.1 Runnymede Borough Council (RBC) has approved the investment of £5 million in the £501 million River Thames Scheme over the next decade.
- 1.2 RBC has both a River Thames Scheme (RTS) Promotor role, as a partner authority, and a Regulator role as a Local Planning Authority and a Statutory consultee in the Development Consent Order process. Legal counsel has advised the Council that it is vital that the roles and responsibilities for all RBC Staff and Council Members working in both capacities are set out to establish clear and defined working practices, for each set of roles, from the outset.
- 1.3 Appropriate understanding of the requirement for the separation of the roles and responsibilities of RBC Members and Officers is essential to ensure and demonstrate that Council has fulfilled its duties appropriately and ethically and that any perceived conflicts of interest have been removed.
- 1.4 The risk is both legal and reputational, and it could undermine the RTS and the Regulator function of RBC. For instance, RBC could be challenged in the future, and it is essential that we can demonstrate that robust procedures are in place to appropriately separate both functions.
- 1.5 This document proposes how the dual functions of RBC will be separated. It also identifies the requirements of Members and Officers to consider in relation to their individual roles and responsibilities.

THE RIVER THAMES SCHEME

- 1.6 Flood alleviation and the defence of homes, businesses and infrastructure located on the Thames Floodplain in the Boroughs of Runnymede, Elmbridge and Spelthorne against flooding is a designated Nationally Significant Infrastructure Project (NSIP) and subject to application to the Secretary of State for the grant of a DCO to proceed. If granted, the RTS will reduce the risk of flooding from the Thames for Surrey communities in Runnymede, Spelthorne, and Elmbridge. It will achieve this through the construction of two new channel sections to divert water away from the Thames and the provision of additional capacity improvements to Sunbury, Molesey and Teddington weirs and the Desborough Cut.
- 1.7 The Outline Business Case for the scheme was approved by HM Treasury in June 2021. The project is now in the pre-application phase of the DCO process. This includes, amongst other things, technical design, Environmental Impact Assessment (EIA), submitting a DCO application, preparing for construction including procurement of the main construction contract and ultimately getting Final Business Case Approval by HM Treasury. It is anticipated that the application for the DCO will be submitted in 2024 and the scheme will be under construction by 2027.
- 1.8 The DCO regime was introduced through the Planning Act 2008 to streamline the decision-making process for NSIPs. DCO applications are submitted to the Planning Inspectorate for examination on behalf of the Secretary of State. The DCO is a statutory instrument and includes the required consents including Planning, listed building, deemed consents, licences and compulsory purchase powers to enable a scheme to be delivered.

- 1.9 RBC is involved in the project in two distinct capacities:
- (1) as a partner Local Authority and promoter of the scheme with the Environment Agency (EA) and Surrey County Council and
 - (2) as a Regulator as Local Planning Authority and a statutory consultee.
- 1.10 RBC has worked closely with the EA, Surrey County Council (SCC), and its sister Partner Local Authorities Elmbridge (EBC) and Spelthorne Borough (SBC) Councils on the RTS over several years. The decision for SCC to become a joint DCO Applicant with the EA was agreed at the SCC Cabinet meeting of 26th January 2021.
- 1.11 At the same time, SCC is a host authority, along with several other authorities.
- The RTS is located within the SCC boundary as well as the London Borough of Richmond upon Thames. Within Surrey, it includes the Boroughs of Runnymede, Spelthorne, and Elmbridge. Together these comprise the host authorities for the scheme and are statutory consultees under sections 42 and 43 of the Planning Act 2008. Through the DCO process, the five councils will have specific responsibilities through the pre-application and examination stages, primarily to evaluate and provide local perspective on proposals, contributing to the scheme development and examination process to achieve best possible outcomes for the local area.
- 1.12 All five Regulator authorities have key roles in the DCO process:
- 1.12.1 as pre application consultees.
 - 1.12.2 to provide comment on adequacy of consultation.
 - 1.12.3 to provide support to the Examining Authority (ExA) during the intensive six-month examination period. This ranges from providing Local Impact Reports to assist the ExA in evaluating the impacts of the DCO Scheme on local interests through to participating in issue specific hearings, responding to technical written questions, and agreeing the Statement of Common Ground (SoCG); and
 - 1.12.4 in a post examination role, mainly linked to the discharge of DCO requirements.
- 1.13 The four Boroughs are the Local Planning Authorities. As a London Borough, Richmond upon Thames is also the Local Highway Authority for its area and the Lead Local Flood Authority.
- 1.14 SCC is the Local Highway Authority, the Minerals and Waste Planning Authority and the Lead Local Flood Authority for the county of Surrey, in addition to delivering a range of service areas likely to be impacted by the scheme.
- 1.15 RBC occupies a dual role as both a Promoter / Partner Local Authority to the scheme, and Regulator as a Local Planning Authority. A clear internal demarcation between these roles is needed at an early stage in the DCO process. Local authorities are not unused to having to deal with a separation of roles and responsibilities, but specific role which RBC Members and Officers are responsible must be made clear to all engaged in the process, and specifically the statutory role that they are fulfilling in any action taken.
- 1.16 At the Cabinet meeting on 20 July 2021, SCC confirmed the principle of collaborating with the EA and progressing as a joint applicant, including ensuring that appropriate

demarcation was in place between the SCC Promoter and Regulator roles. SCC being a joint applicant to the DCO adds complexity, and this needs to be recognised and procedures put in place to ensure that the statutory roles of the councils as host authority remain independent, impartial, and free of conflict and that the council's statutory functions and decision-making are carried out in an unfettered manner.

As a Partner Local Authority to the scheme, RBC adopts the same approach.

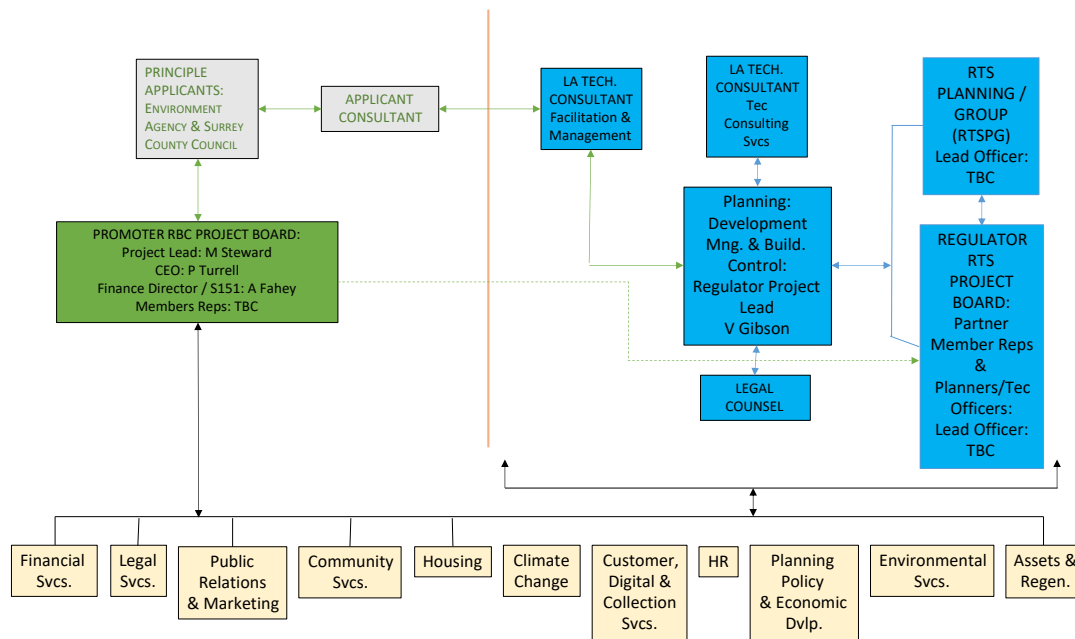
KEY PRINCIPLES

- 1.17 RBC will seek to adhere to the overarching key principle that an ethical wall is in place between the roles and responsibilities of Members and Officers acting in their capacity as a scheme Promoter, and those being carried out as Regulator, such that no Members or Officers working on the RTS from a Promoter perspective will seek to influence or engage outside of formal, prescribed consultation and engagement procedure with Members and Officers working on the Scheme from a Regulator perspective.
- 1.18 This separation is to be maintained for the duration of the RTS programme, from the pre-application phase through to examination, construction and opening.
- 1.19 Officers working on the project from a Promoter perspective will not contribute to RBC's formal responses to the DCO consultation.
- 1.20 Noting that within a team there may be individuals who are working on either the Promoter or Regulator side, it is important to identify appropriate pathways to seek additional advice regarding issues/concerns/disputes, to prevent conflicts of interest. The Promoter team should escalate matters to the RTS Principal Project Manager - and the Regulator team to the RBC Development Manager (nominated on behalf of the LPA).
- 1.21 A group mailbox rtshostauthority@runnymede.gov.uk has been adopted for contacting RBC as a Promoter, to simplify communication and coordination between the Promoter, the Regulator, and external third parties including residents.
- 1.22 All meetings and phone conversations in relation to the RTS Scheme between RBC Members and Officers acting in a Promoter capacity, and those fulfilling the Regulator role, will be formally minuted. Such engagement will be recorded in the Consultation Report which will be submitted with the application for the DCO and may be required during the Examination as evidence to justify decision making.
- 1.23 It is also important to consider the role of external consultants/suppliers and the potential for an organisation to be performing roles for RBC as a Promoter and as a Regulator. Where such situations exist, the consultant firm will be asked to ensure that ethical walls exist between individuals and groups involved and ensure that they provide separate capacity and/or teams for the separate functions of RBC.
- 1.24 Annex A provides details of RBC Officers who have been allocated to advise either the Promoter or the Regulator functions of RBC, or both regarding purely technical functions. All Officers will be fully briefed and given the opportunity to ask questions so that they can understand which side of the ethical wall they are on, and the approach set out to maintain a clear demarcation in activities. The Annex will be reviewed and updated, if required, at least every three months – or earlier if needed - and an update series of briefings held for RBC Officers as needed.
- 1.25 If RBC officers have any queries around the Separation of Responsibilities, they should consult the RTS Principal Project Manager (Promotor) or the RBC Planning Group Manager (Regulator).

RBC AS THE PROMOTER

- 1.26 The RTS RBC Team will be managed under the governance structure presented in Figure 1 below.

Figure 01 – River Thames Scheme – RBC Separation of Responsibilities



KEY

- Regulator
- Promoter
- Technical Service Support Team (Neutral)
- Joint Applicant (Env. Agency & SCC)
- Ethical Wall
- Regulatory reporting pathway
- Consultation pathway
- Gues reporting pathway (by exception)

- 1.27 Governance of the RTS project is carried out by the Joint Applicant with input from the RBC Project Board and the equivalent bodies in SCC, EBC and SBC.
- 1.28 The RBC Project Board is the vehicle for the Council to input to the DCO and construction program from the Promoter side of the ethical wall. The RBC Project Board will comprise the RBC Lead Officer for the day to day management and delivery of the DCO process. The CEO and FD will be only be called upon for executive decisions material to the project and the Council. Representative Members on the Promoter side of the ethical wall have the opportunity to provide feedback and receive updates from the Applicants via the the Lead Officer.
- 1.29 The RBC Lead Officer for the project is responsible for overall management and delivery of the DCO process and project delivery within the remit of RBC’s status as a Partner Local Authority

Marcel Steward is the RBC Project Lead Officer on the promoter side of the ethical wall.

The RBC Lead Officer will also represent RBC at the Partner Local Authority Project Board on a day to day basis. Among other duties, their role will be to update the CEO, FD and designated representative Members on the Promoter’s side of the ethical wall.

RBC AS THE REGULATOR

- 1.30 A DCO is a statutory instrument granted by the Secretary of State to authorise the construction of and development of a NSIP.
The DCO must comply with all requirements set out in the Planning Act 2008 and associated legislation.
Therefore the role of the Regulator response from RBC is located within the LPA exercising its development management functions.
- 1.31 A Service Level Agreement (SLA) was signed on 1st April 2022 which sets out the requirements and expected levels of service between the RTS and the Surrey host authorities, including RBC.
- 1.32 A RTS Planners Group (RTSPG) has been established so that the host authorities can work collaboratively. Negotiation of the SLA took place through this group, led by RBC. There is a separate Agreement between the host authorities to govern technical consultancy service support from third parties to the Regulators.
- 1.33 Officers in their capacity of carrying out development management and regulatory functions will need to consider key aspects of the RTS such as environment and public amenity provisions. Specialist officers will also need to consider elements of the evidence supporting the application and be engaged in pre- and post-application consultations. This would include specialists from services such as, Planning Policy, Flooding, Air Quality, Contaminated Land, Legal, Property and Climate Change and Sustainability.
- 1.34 The Council's Planning Development Management Team will be in a coordinating role, acting as the Regulator central point of contact, and will be responsible for ensuring RBC Regulator authority engagement occurs at all appropriate stages of the scheme development and examination. The Group Mailbox rtshostauthority@runnymede.gov.uk will support this.
Victoria Gibson is the Lead Officer on the Regulator side of the ethical wall as the nominated officer of the LPA on RTS matters.
- 1.35 Working practices to ensure this distinction between RBC's dual roles have been adopted throughout the informal pre-application period. Where technical input from Officers not forming part of the RBC Promoter project team is provided to inform scheme development, this is taking place on a formal footing with meeting minutes produced.
- 1.36 Senior level oversight from RBC as a partner Local Authority perspective, is provided by the Corporate Head of Law and Governance. Regulator day-to-day decision-making activity and examination submissions are made by the Development Manager exercising delegated authority where available. Where delegated authority is not available matters are referred to the planning committee in line with the Council's Constitution. The Development Manager is accountable to the Corporate Head of Development Management and Building Control.

Where the technical resource to respond to an information or work request does not exist within the Council – these will be referred to the LA Technical Consultant in their Consulting Services capacity for interpretation to facilitate an informed response from the Council.

- 1.37 Information and Work Requests will be created by the Applicant via their Consultant. These will be passed to the LA Tech Consultant in their Facilitation and Management

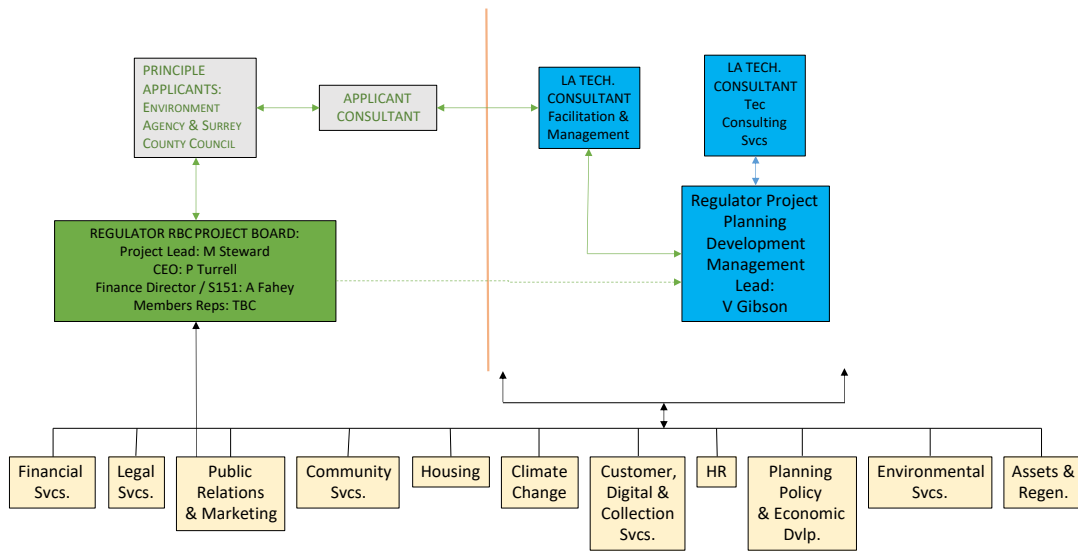
capacity for onward transmission to the Lead Officer on the Regulator Side of the ethical wall.

- 1.38 Responses from the Lead Regulatory Officer will be sent directly to the Applicant's Consultant.
- 1.39 By exception, members of the RBC Project Board on the Promoter side of the ethical wall will communicate with the Regulator Team on subjects related to the overall management and smooth running of the Project. Meetings will be minuted and the minutes archived for reference.

RBC TECHNICAL OFFICER SUPPORT (NEUTRAL)

- 1.40 Technical Services Officers will support and respond to requests for fact based, evidential information to both the Promoter and Regulator teams.

ANNEX A: RTS CONSULTATION STRUCTURE



KEY

- Regulator
- Promoter
- Technical Service Support Team (Neutral)
- Joint Applicant (Env. Agency & SCC)
- Ethical Wall
- Regulatory reporting pathway
- Consultation pathway
- Guest reporting pathway (by exception)

GROUP DESCRIPTIONS: ROLES AND RESPONSIBILITIES

GROUP	FUNCTION
Local Authority Tech Consultant: Facilitation and Management	<ul style="list-style-type: none"> - Facilitate and manage consultation between the Applicants Consultant and the Local Planning Authority (LPA) Consultees - Receive work requests from Applicants Consultant - Direct Transfer of work requests - Facilitate meetings between LA Tech Consultant and LPAs - Manage meetings: virtual and in person - Compile communal responses to Applicants where appropriate - Compile and maintain a Communal response to certified DCO documents including but not limited to Statements of Community Consultation & Common Ground - Monitor Financial support charges made by LPAs to the Applicant
Local Authority Tech Consultant: Technical Consultancy Services	<ul style="list-style-type: none"> - Provide specialist consultancy services to LPA's - Provide specialist consultancy services to RTSPG & RTS Project Board as required

GROUP	FUNCTION
Applicants: EA & SCC	Responsibilities: <ul style="list-style-type: none"> - Responsible for Application of the Development Consent Order (DCO) including the Pre-Application Consultation process
Applicant Consultant	<ul style="list-style-type: none"> - Carry out the Pre-Application Consultation under instruction from the Applicant
Program Board	<ul style="list-style-type: none"> - Represent the Partner Local Authorities - Strategic management including its wider enabling function
Sponsor Group Members	<ul style="list-style-type: none"> - Represent Partner Local Authority Members
Executive Group	<ul style="list-style-type: none"> - Executive decision making: <ul style="list-style-type: none"> - Problem resolution - Approved expenditure - etc.

GROUP	FUNCTION
RTSPG / Planning Group	<ul style="list-style-type: none"> - Information sharing, collective response, etc. - Meeting will be managed to permit Planners dialogue - input from other LA officers from other disciplines - Manage problems
Local Authorities Statutory Consultees	<ul style="list-style-type: none"> - Respond to consultation issues in regard to the RTS DCO Pre Application process including but not limited to evidential based consultation - Respond to Work Requests and directly to Applicant - Maintain an ongoing brief to Members - Contribute to communal responses from the collective LPAs - Invoice Applicant for financial support in responding to the Pre Application via the LA Tech Consultant Facilitation and Management
Host RTS Project Board	<ul style="list-style-type: none"> - Relationship management between partners to facilitate and oversee consultation response delivery under the terms of the Applicant SLA. - Brief Representative Members from Partner LAs and take input to RTSPG
Legal Counsel	<ul style="list-style-type: none"> - Provide legal advice to Partner Las - Represent Partner Las at DCO examination

ANNEX B: RESOURCING

Officers: Specific job roles are listed, with the name of the current post holder shown in brackets.

ROLE: RBC PROMOTER PARTNER/ HOST LOCAL AUTHORITY	RBC: PROMOTER	RBC: REGULATOR LOCAL PLANNING AUTHORITY	RBC: REGULATOR	RBC: NEUTRAL TECHNICAL OFFICER SUPPORT
PROJECT LEAD OFFICER	M Steward			Financial Services TBC
PARTNER LA PROJECT BOARD	M Steward	PROJECT LEAD OFFICER (PLANNING)	Victoria Gibson	Legal Services TBC
				Human Resources TBC
PARTNER LA CEO	Paul Turrell			Public Relations & Marketing TBC
PARTNER LA REP. MEMBERS	TBC	HOST RTS PROJECT BOARD REP. MEMBERS	TBC	Community Services TBC
PARTNER LA LEGAL	TBC	REGULATOR LEGAL	Mario Leo	Housing TBC
		LEGAL COUNSEL	TBC	Climate Change TBC
				Customer Digital & Collection Services TBC
				Planning Policy & Economic Development
				Environmental Services TBC
				Assets & Regen TBC

Members Representation:

ROLE: RBC PROMOTER PARTNER/ HOST LOCAL AUTHORITY	RBC MEMBERS	RBC: REGULATOR LOCAL PLANNING AUTHORITY	RBC MEMBERS
TBC	TBC	TBC	TBC