CAUSE

March 2020

Post-hearing comments, EXD/083, Contingencies

Overview of EXD/083

EXD/083, the submission for NEGC Ltd, creates further concern with regards to contingencies / optimism bias.

It tells us that 10% contingency is applied across the board and that this is upped to 44% on some, seemingly randomly selected, items, while other similar items are ignored.

A quick glance at the list below shows the absurdity of the process. The table is for CBBGC[1], by way of example, although WOB and TCB show similar oddities. NEGC **has** applied 44% contingency to the items in yellow and has **not** to the others. There is no rationale set out:

Management and Long Term Governance
- Travel plan measures
- Open Space Endowment
- Employment Support
- Investment in early phase bus/transit services (CBB12)
- Contribution to Strategic highways (CBB6)

Utilities - Off-site Requirements

Energy
- 12km 132 kV Overhead Line connection to Colchester substation
- Electrctity Diversion Works
- New 2 x 125 MVA Primary Sub Station
- Development of access chambers for BT Telecoms network, BT Openr
- Budget cost per fibre provider for the diversion of underground appara

Water
- Connection to closest feasible supply source with capacity (e.g. trunk r
- Upgrades to water course discharges / Surface Water
- Connection to existing waste water treatment works

Gas
- 1 No. Medium to Low Pressure reducing station
- Upgrade to low pressure gas mains
- Budget cost per lowering of a 180mm Low Pressure Gas Main to accor
- Budget cost per lowering of a 225mm Medium Pressure Gas Main to a

Transport - On Site / Off Site Requirements

Roads and Highways
- Additional bridges overrailway line (2 vehicular & 3 pedestrian/cycle) (
- Marks Tey Station and junction package & Stane St reduction (PR1 & F

Public transport
- A2 & A4 - Active Modes Connections to Rural Hinterland, Cycle Links
- A3 - Active Modes link (Church Lane - Marks Tey station)
- Contribution to provisions of off site RTS network (CBB8)

Public Transport Continued
- On site RTS route and related improvements/facilities (PT1a in MAS, n
- Walking and Cycling connections (CBB10c)

[1] Taken from EXD062 3 of 5, our yellow highlighting added.

The table below shows the proportion of each GC's infrastructure to which 10% and 44% respectively are applied. It is therefore clear that a small proportion of infrastructure has meaningful optimism bias applied to it.

£m	**WOB**	**CBB**	**TCB**
44%	99	88	2
10%	566	894	320
Total	**665**	**982**	**322**
% at 10%	*15%*	*9%*	*1%*
% at 44%	*85%*	*91%*	*99%*

Values shown are unadjusted for calculation purposes

Treasury guidance on optimism bias

With the latest submission in mind, we continue to maintain (and have been saying since our submission in 2017), that Treasury guidance on optimism bias needs to be followed. The submission makes it clear that it is not being followed. Why 10%? Why 44%? Why some items and not others?

It is an open secret that NEGC Ltd wishes to become a LLNTDC. If that is the case, then Treasury Green Book will be the 'bible', and even if a LLNTDC is not pursued, the guidance forms the only sensible framework for a long-term, complex infrastructure project.

Treasury guidance[2] recommends a 66% optimism bias on certain types of infrastructure. Here is the relevant table:

Table 1: Recommended Adjustment Ranges

Project Type	**Optimism Bias (%)[2]**			
	Works Duration		**Capital Expenditure**	
	Upper	Lower	Upper	Lower
Standard Buildings	4	1	24	2
Non-standard Buildings	39	2	51	4
Standard Civil Engineering	20	1	44	3
Non-standard Civil Engineering	25	3	66	6
Equipment/Development	54	10	200	10
Outsourcing	N/A	N/A	41*	0*

* The optimism bias for outsourcing projects is measured for operating expenditure.

2 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/191507/Optimism_bias.pdf

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The guidance says this:

> *"Decide which project type(s) to use*
>
> *3.5 Careful consideration needs to be given to the characteristics of a project when determining its project type. For example, a project might satisfy the standard project criteria (e.g. new build on a greenfield site) and also the non-standard criteria (e.g. demolition and build on brownfield site, and refurbishment). It may be best to consider such a project as two different projects under the same programme.*
>
> *3.6 For ease of determining a project type for building and civil engineering projects, a project is considered "non-standard" if it satisfies any of the following conditions: (a) it is innovative (b) it has mostly unique characteristics; or (c) construction involves a high degree of complexity and/or difficulty."* [CAUSE highlighting]

Looking at the above, it is abundantly clear that:

a) The project **is** innovative.

I. NEGC Ltd's website describes the project as, *"A revolutionary approach",* and says it *"differs from traditional development"*.

II. The Garden Community Charter says, *"Notably, and different from standard development approaches, the Garden Communities – their planning, promotion and development – will be led by the Councils in partnership with existing and new communities and the private sector,* with **risks** *and rewards shared."* Principle 10 of the garden community charter is, "An innovative delivery structure". [CAUSE highlighting]

III. The Local Plan itself mentions innovation *nineteen* times. That includes innovation in: building, finance and technology. It says too, *"delivery of these **innovative** large scale and long term growth projects".*

b) **The NEGC project is unique**. There is nothing like it anywhere in England. The inspector noted as much at the EiP;

c) Many parts of the project, the Rapid Transit System, being one example, **will involve a high degree of complexity and/or difficulty** (indeed using this example, the "wrong end" of the capital cost range is being used for viability modelling anyway, while our expert believes that the "all-in" capital costs will be 2-3x those stated)**.** Indeed, the hearing days (both 2020 and 2018) have illustrated how complicated the project is.

We believe NEGC therefore has two choices:

i. If it wishes to 'cherry pick', then it will have to apply optimism bias of up to 66% on certain of the more complex (non standard) components of the project, such as the Rapid Transit System (as put forward by Steve Johnston at examination) and 44% on the standard components. We believe that for the plan to be sound, any decision on optimism bias cherry-picking of this type must be set out, justified and consulted on;

ii. If NEGC wishes to simplify the process, and apply an across the board optimism bias, then it should be set at least 40%, in line with the Inspector's original recommendation. 44% would be a logical rate to choose, given Treasury guidance.

Optimism bias is intended to reflect a 'real world' context that projects – in particular of the large infrastructure type – experience significant cost overruns. Understating this optimism bias at an early stage of the project puts deliverability at risk, which is clearly important in an NPPF context.

Benchmarking

There is still no mention of benchmarking, and this needs to take place. The recommended adjustment ranges in the Treasury table above were derived from an extensive benchmarking exercise carried out by Mott McDonald, which analysed the actual outcome costs and time-tables on a very large range of public procurement processes in order to quantify the risk. We have not seen any benchmarking attempts for the NEGC project as a whole, but, as we have frequently noted[3], it must be viewed as a complex, long-term infrastructure project, not a standard housing development.

It would seem prudent for NEGC to carry out a benchmarking exercise of its own, including national infrastructure projects such as Crossrail, HS2, Heathrow 3rd runway, Ebbsfleet Garden City and London's Garden Bridge. Such an exercise would undoubtedly lead even the casual observer, let alone someone entrusted with tax-payers' money, to conclude that higher and indeed more realistic contingencies at this early stage would be far more appropriate.

Conclusion

We believe that, while EXD/083 does provide further detail (and further reason for concern) about one element of the viability appraisals, it is clear that the viability analysis more broadly has little or no relevance in supporting the Local Plan's legal soundness. Specifically:

- The main input is land values based on purchasing through CPO. But NEGC stated repeatedly at the EiP that they did not intend to CPO the majority of the land (and indeed numerous parties stated that this was not possible legally due to the number of developers who want to develop the land). The analysis is therefore based on inputs which are irrelevant in a 'real world' context

- The AY-calculated CPO values were based on NEA-expressed views on the development potential of the land parcels. This is of course compromised input given the potential NEA/NEGC (as NEGC is a wholly owned subsidiary of the NEAs and Essex CC) involvement in and profit from the development. It is therefore likely that even if the land could be CPOed, the values would in reality be significantly higher

- It was mentioned a number of times at the EiP that NEGC's stated "mix and match" approach to land acquisition (some via negotiation; some via CPO) would render the CPO valuations particularly meaningless, as the negotiated land prices would increase the assessed CPO values to be paid.

[3] We set out the risks the project will face in our submission, "Costs & Risks" in 2017.

- The main output is IRRs (calculated correctly, unlike the Hyas ones), but they are so low – even using these unrealistically cheap land values – that they do in no way support viability (note the IRR benchmarks referred to in our various previous viability submissions as well as those of Mr O'Connell.