



Marine
Management
Organisation

Marine Licensing
Lancaster House
Hampshire Court
Newcastle upon Tyne
NE4 7YH

T +44 (0)300 123 1032
F +44 (0)191 376 2681
www.gov.uk/mmo

Thurrock Power Limited Case Team
Planning Inspectorate

ThurrockFPG@planninginspectorate.gov.uk

By Email Only

MMO Reference: DCO/2018/00015
Planning Inspectorate Reference: EN010092

23 March 2021

Dear Sir/Madam,

APPLICATION BY THURROCK POWER LIMITED (THE APPLICANT) FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE THURROCK FLEXIBLE GENERATION PLANT

Deadline 2 Response

This document comprises the Marine Management Organisation's (MMO) Deadline 2 response in respect to the above Development Consent Order (DCO) Application. This is without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This is also without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.

The MMO reserves the right to modify its present advice or opinion in view of any additional matters or information that may come to our attention.

Yours faithfully,

Nicola Wilkinson
Marine Licensing Case Officer

D +44 (0)2080265535

E nicola.wilkinson@marinemanagement.org.uk

Copies:

Sarah Errington (Case Manager): Sarah.Errington@marinemanagement.org.uk

Lindsey Mullan (Senior Case Manager): Lindsey.Mullan@marinemanagement.org.uk



Contents

1. Written Representation (WR).....	3
2. Comments on Relevant Representations (RRs).....	4
2.1. RR-005 Winckworth Sherwood on behalf of Port of London Authority	4
2.2. RR-011 BDB Pitmans LLP on behalf of London Resort Company Holdings Ltd	4
2.3. RR-012 Historic England	4
2.4. RR-013 Environment Agency	4
2.5. RR-021 Maritime and Coastguard Agency	4
2.6. RR-022 Natural England	5
3. Comments of Procedural Deadline D submissions.....	5
3.1. PDD-004 Historic England	5
3.2. PDD-011 Winckworth Sherwood on behalf of Port of London Authority.....	5
3.3. PDD-012 & PDD-013 Natural England.....	5
4. Comments on Any Additional Submissions accepted by the Examining Authority (ExA)	6
4.1. AS-011 Thurrock Power Ltd – Notification of a non-material change request to the submitted application.	6
4.2. AS-003 Additional Submission - Applicant’s response to s51 advice - 3.1 Draft Development Consent Order.	6
4.3. AS-007 Cumulative Effects Assessment Addendum. Additional Submission from the Applicant.	6
5. Responses to ExA’s Written Questions (ExQ1).....	6



1. Written Representation (WR)

Since the submission of the MMO's Relevant Representation (RR-014) on 30 July 2020 there have been ongoing discussions with the Applicant. A virtual meeting was held between the MMO and the Applicant, on 11 February 2021, where the Statement of Common Ground (SOCG) was discussed and some outstanding matters resolved. These matters will be further discussed below and it is the understanding of the MMO that the Applicant will be submitting a revised SOCG to PINS.

The MMO is working with the Applicant to establish a SOCG. The MMO believes that the SOCG can eliminate any areas of disagreement and will be updated as discussions progress and submitted at deadlines 3, 4, 5 and 7 until a final version has been agreed

Further to the above the MMO can confirm that the Applicant has provided the MMO with sediment sample analysis which has been reviewed in consultation with our technical advisors at the Centre for Environmental, Fisheries and Aquaculture Science (Cefas). A formal response dated 11 March 2021 was sent to the Applicant. In summary the review indicated that the material would likely be suitable via water injection dredging (WID) and/or disposal at sea, however further clarifications and results of the additional sample analysis would be required. The MMO has also advised the applicant that further sediment sampling will be required prior to the commencement of dredging of which the Applicant has now included in Requirement 12. The MMO has provided wording for the Applicant to use. The MMO expect this to be formally noted in the Applicants SOCG.

The discussion around Arbitration has been progressed. It is the MMOs understanding that these changes will be reflected in the next draft DCO submitted by the Applicant. Further discussions are ongoing and the MMO will consider any revisions made to the draft DCO.

With regards to the need for a seasonal restrictions within the Deemed Marine Licence (DML), the MMO is currently in discussions with the Environment Agency (EA) and Natural England (NE) over this matter. The MMO will continue its engagement on the Applicant and keep them informed of any progress made on this matter when available.

The discussion around the MMO's involvement in the causeway decommissioning plan have been progressed, and the MMO note the Applicant is working on amendments to the DCO. The MMO will consider any revisions made to the draft DCO.

The MMO is continuing its discussion with the Applicant over the inclusion of a written scheme of investigation (WSI) within the DML and any associated condition requirements. This will be done in consultation with Historic England (HE).

The MMO note that our previous comments on the draft DML are being actioned by the Applicant. The MMO will be able to provide further comments at Deadline 3.



2. Comments on Relevant Representations (RRs)

2.1. RR-005 Winckworth Sherwood on behalf of Port of London Authority

2.1.1. The MMO shared similar concerns with the Port of London Authority (PLA) at RR stage. The MMO has since been liaising with the PLA as the Statutory Harbour Authority (SHA) and are hopeful that following a meeting with the Applicant on 11 March 2021 that the proposed/confirmed amendments to the DCO application/DML drafting (e.g. removal of saltmarsh enhancement plan, additional sampling) will address concerns.

2.2. RR-011 BDB Pitmans LLP on behalf of London Resort Company Holdings Ltd

2.2.1. The MMO note that at this stage in examination any cumulative/in-combination assessments (e.g. Habitats Regulation Assessments) need to be iterative with current draft documents needing to be revised to take account of any new plans/projects (e.g. The London Resort).

2.3. RR-012 Historic England

2.3.1. The MMO acknowledges that at the time of writing, Historic England's (HE) advice relating to the marine historic environment is limited, based on initial information provided within the DCO application, and that further advice will be provided during the examination process. The MMO will provide further comments following review of Historic England's WR in section 3.1 of this response.

2.4. RR-013 Environment Agency

2.4.1. The MMO note that many of the concerns raised by EA are in relation to the creation of a saltmarsh habitat within the intertidal zone, which, as noted in the MMO's Deadline D response, is no longer considered a suitable option and as such has been withdrawn. As such the MMO have not focused on these comments.

2.4.2. The MMO notes that the EA have raised concerns over the impacts that dredging activities may have on marine ecology receptors, and loss of inter-tidal area (including the dredge pocket). The MMO are in contact with the EA regarding any conditions (e.g. seasonal restrictions for migratory fish) that may be required on the draft DML. The MMO will keep the Applicant informed of these discussions and hopes to provide further comments in future deadline responses.

2.4.3. The MMO defer to the EA's comments on the Water Framework Directive (WFD) as this is within their jurisdiction. The MMO have been in discussions with the Applicant and have reviewed the sediment sample analysis in consultation with Cefas. Please see section 1 of this response for further details.

2.5. RR-021 Maritime and Coastguard Agency

2.5.1. MMO would welcome engagement from the Maritime and Coastguard Agency (MCA) regarding any conditions they would recommend for the draft DML. It is



the MMO's understanding that a separate marine licence application will be sought from the Applicant in relation to any maintenance dredging activities. The MMO confirm that consultation will be undertaken with MCA as standard, along with the PLA as SHA.

2.6. RR-022 Natural England

2.6.1. MMO defer to Natural England (NE) on potential impacts to designated habitats and species as the Statutory Nature Conservation Body (SCNB). The MMO has contacted NE and will work with them regarding any potential conditions required in the DML (e.g. seasonal restrictions). The MMO will keep the Applicant informed of these discussions and hopes to provide further comments in future deadline responses.

3. **Comments of Procedural Deadline D submissions**

3.1. PDD-004 Historic England

3.1.1. MMO note that the majority of concerns are related to terrestrial aspects of the project, which are outside the jurisdiction of the MMO. However, the MMO support HE's comment regarding the lack of licence condition/s within the DML for the 'marine written scheme of investigation' and would like to note that the MMO have previously provided suggestions to the Applicant for condition/s wording in both the Section 56 (RR-014 - 8.1) and Deadline D (PDD-005 - 15.1 & 15.2) response. Discussions with the Applicant are ongoing (please see the SOCG), and the MMO understand that the Applicant will revise the draft DML to include a condition for the marine written scheme of investigation. MMO would welcome engagement from HE regarding this condition.

3.2. PDD-011 Winckworth Sherwood on behalf of Port of London Authority

3.2.1. The MMO have reviewed this document and as noted in this response we agree with the comments of the PLA as the SHA at the time of writing. The MMO are hopeful following discussions with the Applicant (section 1) that any outstanding matters can be resolved before the end of examination.

3.3. PDD-012 & PDD-013 Natural England

3.3.1. MMO note NE's concerns that the construction and operation of the causeway may have on SPA bird features, and that this may require a Register of Environmental Actions and Commitments (REAC). As noted above in section 2.6 of this response the MMO will defer to NE as SNCB to ensure any required mitigation is secured within the DML as a condition, and will continue its engagement with the Applicant and keep them informed of any progress made on this matter when available.



4. Comments on Any Additional Submissions accepted by the Examining Authority (ExA)

4.1. AS-011 Thurrock Power Ltd – Notification of a non-material change request to the submitted application.

4.1.1. The MMO have reviewed this document and note the removal of the proposal to create saltmarsh habitats and is in discussion with the applicant over suitable disposal methods of the dredged material now it is no longer to be used for habitat creation.

4.2. AS-003 Additional Submission - Applicant's response to s51 advice - 3.1 Draft Development Consent Order.

4.2.1. The MMO note that although this is not the latest iteration of the DCO the MMO has been in discussions with the Applicant following this, and expect the draft DCO to be updated. Comments on the updated draft DCO will be provided at the next deadline.

4.3. AS-007 Cumulative Effects Assessment Addendum. Additional Submission from the Applicant.

4.3.1. The MMO has reviewed this document and has no comments to make in regards to the cumulative effects with the Lower Thames Crossing jetty construction.

4.3.2. As mentioned in section 2.2 The MMO note that both cumulative and in-combination effects will need updating throughout the examination period and will review as required.

5. Responses to ExA's Written Questions (ExQ1)

5.1. MMO has reviewed the ExA's written questions and the following constitutes the MMO's response to direct questions and any other questions which the MMO feels are of relevance to our remit and/or interests.

5.1.1. With regard to question 1.7.30 – The MMO provided comments on the draft DML at Deadline D (PDD-005) and is in ongoing discussions with the Applicant (please see section 1 of this response for further details) to agree a SOCG which includes matters related to the DML.

5.1.2. With regard to question 1.7.29 – The MMO welcome the inclusion of a causeway decommissioning plan and note that this may need including within the DML

5.1.3. With regard to question 1.10.14 – The MMO would like to highlight the need to update the coordinates in the DML to reflect the most up-to-date boundary following the removal of Work no.9 (Part 1, table 2).



- 5.1.4. With regard to question 1.11.9 – The MMO note that no mitigation measures have so far been suggested in relation to the loss of mudflat habitat. As the regulator for matters occurring below Mean High Water Springs (MHWS) any mitigation put forward may need securing on the DML.
- 5.1.5. With regard to question 1.14.1 – The MMO can confirm that we have been in touch with both the EA and NE, in order to discuss any conditions which may be required on the DML. The MMO will keep the Applicant informed of these discussions and hopes to provide further comments in due course. As noted above in section 5.1.1 ongoing discussions are taking place with the Applicant regarding the SOCG.
- 5.1.6. With regard to question 1.14.2 – It is the understanding of the MMO that maintenance dredging activities are not included in the DML as the full details of this activity is currently unknown. Therefore, the Applicant will be required to apply for a separate marine licence from the MMO. This risk of this approach (e.g. delay to operational activities) has been raised to the Applicant.
- 5.1.7. With regard to question 1.14.5 – The MMO welcome engagement from the MCA on this matter.
- 5.1.8. With regard to question 1.14.7 – The MMO understand from discussions with the Applicant that the tolerance values of 5/10% on the dredging parameters will be removed from future drafts of the DML.

Nicola Wilkinson
Marine Licensing Case Officer

D +44 (0)2080265535

E nicola.wilkinson@marinemanagement.org.uk

