



20th April 2021

The Planning Inspectorate

By email only: ThurrockFPG@planninginspectorate.gov.uk

Dear Sir,

Planning Inspectorate reference: EN010092

Application by Thurrock Power Limited for an Order Granting Development Consent for the Thurrock Flexible Generation Plant Project

Application for a material change to an accepted Development Consent Order to include new land within the scope of compulsory acquisition

Infrastructure Planning (Compulsory Acquisition) Regulations 2010

1 APPLICATION

1.1 The Applicant hereby submits a request for a material amendment to the submitted DCO application under Regulation 5 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010. The changes sought are:

- An amendment to the access arrangements for oversized abnormal indivisible loads which requires additional land, a new work and a new sub-work to be added to the land affected by the DCO.
- A revision to the Book of Reference to include the interests of the Port of Tilbury London Limited (PoTLL) not yet shown on the Land Register but as advised by the Port. This change does not affect the area of land affected but amends the category of interests held to correctly note the interest now held by PoTLL which would be affected by the DCO.

1.2 The amendments to the land affected by compulsory acquisition as a result of the changes sought are:

- Plots 01/01, 01/02 and 01/03 are no longer used as plot numbers because the Sheet Frames have been updated due to the addition of areas of land and those plots are therefore now located on a different sheet. For the avoidance of doubt the land previously contained within these plots numbers has not been removed and is included in new plots 05/01, 05/02 and 05/03 respectively. There is no change to the size of or rights sought in those plots, this is purely a numbering change.
- Plot 01/04 has now been split over two separate sheets reducing the area of Plot 01/04 as listed in the Book of Reference accompanying this request. The area of land which has been removed from plot 01/04 is now included in new plot 05/04 which has been enlarged to the south from the original boundary of plot 01/04 to accommodate a new junction and access road. New rights are sought over 8926.38 square metres of land being public road (Fort Road), private road (Power Station Approach Road, Fort Road), north of Tilbury Power Station, Tilbury and marked as plot 05/04.

- The addition of new rights over 174.52 square metres of land being hardstanding at Tilbury Power Substation, Tilbury and marked as plot 01/33.
 - The addition of new rights over 70.20 square metres of land being grassland, trees and shrubbery at Tilbury Power Substation, Tilbury and marked as plot 01/34.
 - The addition of new rights over 370.98 square metres of land being hardstanding and overhead transmission lines, at Tilbury Power Substation, Tilbury and marked as plot 01/35.
 - The addition of new rights over 229.15 square metres of land being hardstanding, drain and overhead transmission lines, south of Tilbury Power Substation, Tilbury and marked as plot 01/36.
 - The addition of new rights over 3127.85 square metres of land being grassland, hardstanding, trees, shrubbery, drain and overhead transmission lines, south of Tilbury Power Substation, Tilbury and marked as plot 01/37.
 - The addition of permanent acquisition of 557.46 square metres of land being grassland, east of Fort Road, Tilbury and marked as plot 05/05. This land is special category land being Common Land. It is proposed to treat this in the same manner as the other Common Land affected by the project as there is scope within the currently proposed replacement land to replace this as well as there is overprovision of replacement land.
 - The addition of temporary rights over 364.79 square metres of land being grassland and highway verge, east of Fort Road, West Tilbury and marked as plot 05/06.
 - The addition of new rights over 856.34 square metres of land being hardstanding and grassland, east of Fort Road, West Tilbury and marked as plot 05/07.
 - The addition of temporary rights over 1994.24 square metres of land being public highway (Fort Road) and highway verge, West Tilbury and marked as plot 05/08.
- 1.3 The Applicant advised the Planning Inspectorate of its intention to seek this change on 15 April 2021.

2 REASONS FOR AND SCOPE OF THE MATERIAL AMENDMENT SOUGHT

- 2.1 This change request seeks to add the additional land necessary in order to deliver a proposed alternative Abnormal Indivisible Loads (AILs) route from Tilbury Port to the main power station site (Work no 1).
- 2.2 As set out in its written representation (REP2-096) and deadline 3 submission (REP3-023), PoTLL objects to the construction and use of the Work no. 10 the causeway in the river Thames. RWE has also objected to the causeway (REP2-095 and REP3-025). The Applicant does not accept the basis of these objections and continues to consider that the causeway is acceptable in marine use, planning and environmental terms and that this is evidenced by the substantial levels of agreement reached on the proposal with the MMO, PLA, EA and NE. However, as set out in PoTLL and RWE's submissions and in Applicant's deadline 3 submissions (REP3-011 and REP3-012), discussion has been ongoing between the parties to seek an alternative access route for delivery of oversized AILs for the project. The parties believe that they have identified a viable alternative route, subject to agreement being reached on the use of Port facilities for delivery and unloading of AILs.
- 2.3 The alternative AIL access now proposed would use Port of Tilbury docks for delivery of AILs by ship. From the Port, a short length of public highway (Fort Road) would be used. Before Fort Road rises to pass over the Port's internal road, a new junction would be formed to the east connecting Fort Road to the already proposed construction access route to the east of the Fort Road overbridge. This new stretch of road is necessary as the AILs could not pass under the Fort Road overbridge to access the Port's internal road. The new road requires the addition of

plots 05/04, 05/05, 05/06, 05/07 and 05/08. Temporary possession only is sought of the Fort Road public highway (plots 05/06 and 05/08) to allow the construction of the new junction and to allow the undertaker to put in place traffic management. The new junction would be gated to prevent access being taken to the Port over this route.

- 2.4 Around the new access road, the landscaping and planting would be relocated to incorporate the new road, with some planting moved north closer to the Port's boundary fencing. The current drainage pond would be retained in situ.
- 2.5 Once on the Port road, the AIL access would follow the existing construction access route through PoTLL's land until the boundary with RWE land. At this point, overhead electrical lines cross the route and there would be insufficient clearance to safely transport the AILs under them. A change to the route to add a new southern section bypassing this constraint is required (Plots 01/33 – 01/37).
- 2.6 The Applicant is aware that PoTLL has submitted (REP3-023) that where this alternative access is sought in the DCO, the causeway should be deleted from the DCO application. The Applicant does not agree with this position and is not seeking to delete the causeway from the application. As set out in its deadline 3 response to PoTLL (REP3-011) the Applicant could only commit to using this alternative if it had:
- (a) secured the necessary development consent (or planning permission) and permits and licences where relevant for relevant works;
 - (b) secured the deregistration of the affected common land, on which a section of road needs to be constructed;
 - (c) secured a binding option for easement (or compulsory acquisition powers) for the route from Fort Road to the Site;
 - (d) secured a binding commercial agreement for the handling/offloading of the AILs into the Port and their passage to Fort Road.
- 2.7 Where this change request is not accepted, the Applicant will look to pursue the alternative through appropriate consenting processes as part of the commitment already made (and documented in the dDCO as requirement 18) to assess and pursue alternatives to the causeway.
- 2.8 In addition to ongoing discussion with PoTLL and RWE, the other landowner (Coles) have been consulted on and agreed to the inclusion of their land (plot 05/05) in this change. It has not however been possible to obtain the agreement of all of the interests in the additional land which includes rights in favour of utilities so consultation under the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 is required if this change is accepted.
- 2.9 Thurrock Council as highway authority for the affected public highway (Fort Road) has been consulted.

3 ASSESMENT OF THE NATURE OF THE CHANGE REQUESTED

- 3.1 As set out in Advice Note 16, the determination of whether the change requested is material is to be made by the Examining Authority, not the Applicant. The Applicant notes that PoTLL has submitted (REP3-023) that it considers that this change is non-material. The Applicant has however set out its reasons for considering the change to be material, but not one of substance, in this section.
- 3.2 The change request made involves the addition of new land to the Order Land within the scope of compulsory acquisition. The changes would also relocate the access for oversized abnormal indivisible loads onto land not previously included within the Order. Given the amendment of the red line boundary to affect new land and the relocation of the access for oversized abnormal indivisible loads, the Applicant considers that the changes go beyond what can be considered non-material.

3.3 In assessing the proposed changes, the Applicant has had regard to the advice contained in Advice Note 16. The Applicant notes that the substance of the scheme remains the construction and operation of a generating station within sections 14 and 15 of the Planning Act 2008. No changes are proposed to the generating station to be constructed, its capacity or operation. The Applicant therefore considers that the changes proposed do not alter the substance of the scheme applied for.

4 SUPPLEMENTARY ENVIRONMENTAL INFORMATION

4.1 The Applicant has prepared Supplementary Environmental Information (SEI) to support this change request and a copy of that is submitted with this request in order for the Examining Authority to consider the nature of the change requested and the adequacy of the SEI.

4.2 The Applicant notes that there is no statutory requirement to consult on or publicise this SEI under The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 and that this is noted in Advice Note 16. Should the Examining Authority consider that consultation is required or desirable, the Applicant suggests that this could be undertaken at the same time as consultation under the Infrastructure Planning (Compulsory Acquisition) Regulations 2010.

4.3 Where SEI consultation is required, the Applicant will provide the Examining Authority with copies of consultation responses on the SEI and a final version of the SEI including any proposed changes made in response to consultation no later than the submission of the Certificates of compliance with the Compulsory Acquisition Regulations. That means that the Applicant will have carried out full consultation on the SEI prior to the Examining Authority's consideration of the initial issues in accordance with the Compulsory Acquisition Regulations. It is therefore considered that no prejudice is caused to any party by undertaking the SEI consultation in this way.

5 INFRASTRUCTURE PLANNING (COMPULSORY ACQUISITION) REGULATIONS 2010

5.1 In accordance with the requirements of section 123 of the Planning Act 2008 the provisions of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 will apply to this request.

6 TIMING

6.1 The Applicant has been asked to provide an explanation of how this request can be accommodated within the examination timetable. This request has been made on 20 April 2021. While the Examining Authority has a maximum of 28 days to consider whether to accept this request, the Applicant would hope that, given the limited scope of the changes and that these are being brought forward in response to ongoing discussion with the affected landowners and at their request, the full period for consideration of acceptance would not be necessary.

6.2 The Applicant suggests the following example timetable is realistic:

- Request made 20 April 2021
- Acceptance decision made by 26 April 2021 (6 days, and ahead of first hearings starting on 27 April 2021)
- Infrastructure Planning (Compulsory Acquisition) Regulations 2010 notification and publication carried out 29 April to 05 June 2021 (to allow for the need to publish press notices for two successive weeks) and SEI consultation (if required) from 29 April to 28 May 2021.
- Certificates of compliance with regulations submitted 07 June 2021.
- Final version of SEI taking into account any consultation feedback submitted no later than 07 June 2021.

- Examining Authority determine initial issues and procedure for examining the request no later than 28 June 2021 (21 days).
- Notice of hearings is issued on 29 June 2021.
- Hearings held in week commencing 26 July 2021 as set out in the current examination timetable.
- Examination closes 16 August 2021.

7 ENCLOSURES

7.1 Enclosed with this letter are the following documents, required under Regulation 5 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010:

- (a) Book of Reference
- (b) Land plans identifying the additional land/land affected by the provision
- (c) Statement of Reasons
- (d) Funding Statement

7.2 Also enclosed, in accordance with Advice Note 16, are the following documents:

- (a) A schedule of all application documents and plans listing consequential revisions to each document and plan or a 'no change' annotation; and
- (b) A tracked change version of the DCO and Explanatory Memorandum.

There is no change to the consents/licences required and the proposed change does not cause an impediment to securing any of those consents/licences, so the Other Consents and Licenses Statement is not updated.

We look forward to hearing from you.

Yours sincerely,

Thurrock Power Limited