

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

The Examining Authority's Further Written Questions and Requests for Information (ExQ2)

Issued on 1 June 2021

The following table sets out the Examining Authority's (ExA's) Further Written Questions in relation to the proposed Thurrock Flexible Generation Plant project. Responses are required by **Deadline 5** in the Examination Timetable, **Monday 14 June 2021**. Please note that if this deadline is missed the ExA is not obliged to take account of your response.

Column 2 of the table indicates which Interested Parties (IPs) and Other Persons each question is directed to. This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

The ExA would be grateful if all persons named could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. If the answer to a question is set out in, for example, a Statement of Common Ground (SOCG) then a cross reference to where the issue is addressed is acceptable.

Each question has a unique reference number which starts with 2 (indicating that it is from ExQ2) and then has an issue number and a question number. For example, the first question is identified as Q2.1.1. When you are answering a question, please start your answer by quoting the unique reference number. If you are responding to a small number of questions, answers in a letter will suffice.

In some areas there may be a degree of overlap between the answers to questions and it is acceptable to provide a single answer which responds to multiple questions or answer questions individually and provide cross references between multiple answers where appropriate. If you do so, please use all number references and ensure all elements are addressed.

References to the draft development consent order (dDCO) are to Version 5 of the dDCO [REP4-003].

If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please contact ThurrockFPG@planninginspectorate.gov.uk

Responses are due by **Deadline 5 (Monday 14 June 2021)**.

Abbreviations used

CA	<i>Compulsory Acquisition</i>	S	<i>Section</i>
DCO	<i>Development Consent Order</i>	SOCG	<i>Statement of Common Ground</i>
dDCO	<i>Draft Development Consent Order</i>	SU	<i>Statutory undertaker</i>
ExA	<i>Examining Authority</i>		
IPs	<i>Interested Parties</i>		
LPA	<i>Law of Property Act 1925</i>		
NE	<i>Natural England</i>		
PLA	<i>Port of London Authority</i>		
PoTLL	<i>Port of Tilbury London Limited</i>		
PPs	<i>Protective Provisions</i>		

The Examination Library

References in these questions set out in square brackets (eg [APP-010]) are to documents catalogued in the Examination Library. The Examination Library can be obtained from the following link:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010092/EN010092-000922-Thurrock%20FPG%20-%20EN010092%20-%20Examination%20Library%20PDF%20Version.pdf>

It will be updated as the Examination progresses.

Citation of Questions

Questions in this table should be cited as follows:

Question reference: issue reference: question number, e.g. ExQ2.1.1 – refers to question 1 in this table.

ExQ.	Respondent:	Question:
1	Air Quality	
2.1.1	Applicant	Table 1.3 of Appendix 12.8 displays an increase between the 2018 monitored concentration and 2022 modelled baseline concentration without Thurrock Flexible Generation Plant in place at several locations. It would be expected that predicted NO ² concentrations would reduce in line with national projections. Please explain why increases have occurred.
2.1.2	Applicant	Please respond to the concerns raised by Gravesham Council in its Deadline 4 response [REP4-023].
	Compulsory Acquisition	
2.2.1	Applicant	Does the Applicant intend to limit the exercise of CA powers in relation to Work Nos 12(c) and 12(d) to ensure only one access is brought into use? (see also ExQ2.8.1 below).



ExQ.	Respondent:	Question:
2.2.2	Applicant	Please provide an update on discussions with SUs on protective provisions.
2.2.3	Applicant	In response to ExQ1.3.12, the Applicant recognises that the public access rights under S193 of the Law of Property Act 1925 could be extinguished by the CA of Walton Common and acknowledges the possibility that those rights could be found not to apply to the exchange land. In such circumstances, the ExA considers this could result in a loss or diminution of existing rights. Should Art 33 of the dDCO be amended to include specific reference to s193 LPA 1925 as well as the Commons Regulation (West Tilbury) Provisional Order Confirmation Act 1893?
2.2.4	Applicant	Please explain how the requirement to enter into a capacity market contract in order to obtain board approval would impact on the proposed timescale for the construction of the causeway.
3	Cultural Heritage	
2.3.1	Thurrock Council	In its Deadline 4 submission [REP4-024] the Council states that Walton Common <i>could</i> be considered a non-designated heritage asset. Please confirm whether or not the council considers Walton Common to be a non-designated asset and whether it has been included on any list of such assets compiled by the Council.
2.3.2	Historic England	The ExA notes HE's position as stated at ISH2 (Cultural Heritage) [EV-015 (at approx. 36.30)] was that the effect of the Proposed Development on the setting of Bowaters Farm battery, St James Church and Earthworks near church was "less than significant". However, in its Deadline 4 response HE indicates that it considers the effect on the setting of these heritage assets would be significant. Please clarify HE's position on the significance of effect of the Proposed Development on the setting of these heritage assets.
4	Design and layout	
2.4.1	Applicant	Design of causeway - please comment on the Hydrock Technical design note [Appendix 3 of REP4-031] and the engineering challenges, constraints and risks it identifies. How does the Applicant propose to manage these risks?
5	Draft Development Consent Order	

ExQ.	Respondent:	Question:
2.5.1	Applicant/Thurrock Council	Requirement 10 (Surface and foul water drainage) - please confirm whether the wording of this requirement is now agreed.
2.5.2	Thurrock Council	Requirement 13 – please confirm whether the wording of this requirement is now agreed.
2.5.3	Applicant	Requirement 14 – Please comment on PoTLL’s suggested amendments to Requirement 14 and provide reasons for departing from the approach followed in other DCOs.
2.5.4	Applicant	Please provide an update on PPs. This should specify which are agreed and where they are not, provide a summary of the matters still under discussion.
2.5.5	Applicant	Please comment on the proposed amendments to Art 8 of the dDCO and the concerns raised by PoTLL in its Deadline 4 submission.
2.5.6	RWE Generation (UK) Limited	Please comment on the PPs included in version 5 of the dDCO [REP4-003] for the benefit or RWE (Schedule 9, Part 10).
2.5.7	Applicant	Please provide an updated dDCO at Deadline 5 which incorporates version 5 [REP4-003] and the proposed new Work 15.
2.5.8	Port of Tilbury London Limited	Please confirm whether or not the inclusion of new sub-paragraph 12 to Art 37 of the dDCO (v5) [REP4-003] addresses the concerns raised by PoTLL in relation to this article. If not, please explain.
2.5.9	Applicant	Please provide an update on discussions on the DML.
6	General Questions	
2.6.1	Applicant/PLA	Please provide an update on how discussions are progressing on the agreements to allow the Applicant to construct the causeway, bring it into use and retain it during operation of the causeway. Please provide an indication of when these agreements are likely to be completed.
2.6.2	Applicant/PLA	Please provide an update on discussions between the Applicant and the PLA and identify any outstanding areas of disagreement (and updated SOCG would be sufficient).
2.6.3	Applicant	Please respond to the concerns expressed by PoTLL that the construction of the causeway, its proposed timescale and ongoing presence would impact negatively on plans for the Thames Freeport.

ExQ.	Respondent:	Question:
7	Habitats and Onshore Ecology	
2.7.1	Applicant	In view of the importance attached to functionally linked land [see RSPB and Lydd Airport v. SSCLG and SST [2014] EWHC 1523 (admin)], and noting comments from NE [RR-022; PDD-012], please update the assessment of habitat loss and displacement in the Habitats Regulations Assessment Report [PDC-039]. The updated assessment should include consideration of how and to what extent the mudflats support features of the Thames Estuary and Marshes European Site. It is considered that statements such as 'considering the affected area is not within the SPA' are not consistent with the approach adopted by the court in the Lydd Airport case.
2.7.2	Applicant/NE	Please provide an update on the discussions between the Applicant and NE in relation to the outstanding matters referred to in the draft SOCG submitted at Deadline 4 [REP4-012].
8	Transport and Traffic	
2.8.1	Applicant	The ExA notes the applicant's willingness to consider including a mechanism to control the use of works 12(c) and 12(d) (referred to in the Applicant's Written Summary of Oral Submissions [REP4-020] as Work 4A and 4B)). Please provide details of any proposed mechanism and any consequential amendments to the dDCO to take account of it. See Also ExQ2.2.1 above
2.8.2	Applicant/Network Rail	Please provide an update on discussions on the siting of the access on Station Road and associated issued.
2.8.3	Applicant/Highways England	Please provide an update on discussions (including SOCG, protective provisions and interface agreement between the Applicant and Lower Thames Crossing).

END