



PORT OF  
**TILBURY**  
LONDON

**Section 56(2) Planning Act 2008**

**Application by National Highways for an Order Granting Development Consent for**

**Lower Thames Crossing**

**Planning Inspectorate Reference: TR010032**

**SUMMARY OF ORAL SUBMISSIONS AT ISSUE SPECIFIC HEARINGS 1 AND 2**

**Deadline 1: 18 July 2023**

## 1. GENERAL

- 1.1 Port of Tilbury London Limited (PoTLL) were represented at both ISH1 and ISH2 by Alison Dablin, of Pinsent Masons LLP. This summary of oral submissions includes both the initial view of PoTLL as stated within that hearing, and includes the location within PoTLL's written representation (WR) where more complete submissions on those matters may be found. These WR references, together with post-hearing notes, are highlighted in grey.

## 2. ISH 1 – PROJECT DEFINITION

- 2.1 **Agenda item c) i) Effects of the two-year rephasing in capital funding:** PoTLL would welcome an obligation that the Applicant's Environmental Statement (ES) must comply with relevant guidance and standards as to the age of data, i.e. that published by the Chartered Institute of Ecology and Environmental Management, and BS:42020. This is to ensure the baseline data remains relevant and time-sensitive elements of the ES may be suitably relied upon.

Further information is set out in section 2.2 of PoTLL's WR, providing an update to the submissions in PoTLL's relevant representation (included as Appendix 10 to the WR).

### 2.2 Agenda item d) i) Road design approach:

- 2.2.1 PoTLL agreed to consider the interaction of the LTC with the Port's existing emergency management.

PoTLL has provided a response to this action in its *Response to ExA's Request for Further Information as to the Port's Emergency System Management* document, provided as a separate document at Deadline 1.

### 2.3 Agenda item e) iii) Routing and intersection design – adequate provision for port access:

- 2.3.1 PoTLL is not convinced that the A13/A1089/LTC junction, as currently designed, performs to the level required where there is no direct connection to the A1089 southbound to the Port of Tilbury in the absence of a Tilbury Link Road.

An examination of the efficacy of the proposals is set out in section 5 of the WR. In particular, the Journey Time Assessment, setting out the Applicant's stated benefits to the Port from the LTC Scheme, is examined in section 5.3. This identifies that a significant proportion of LTC traffic will be travelling to the Port, being routed via the Orsett Cock junction.

- 2.3.2 PoTLL is also concerned about construction traffic impacts on the A1089 road connection to the Port. This roundabout is operating sufficiently close to capacity that National Highways requires new development applications to undertake junction modelling of it in order to identify if mitigation is required.

PoTLL has set out its concerns in relation to construction traffic in section 4 of its WR, including potential methods to avoid and reduce impacts.

- 2.3.3 Were the Applicant to make a firm commitment to using the CMAT facility on Tilbury2, this would greatly reduce the amount of road traffic that would need to use the A1089 for construction, travelling through the Port.

This option is explored in more detail in section 4.2 (reduction of impacts) in the WR. The benefits extend beyond a reduction in congestion and include air quality, safety and carbon/climate change benefits. Should a conveyor be required, this would interfere with water vole mitigation and habitat established (for which a European Protected Species licence is held) under the Port of Tilbury (Expansion) Order 2019. It should be established if the conveyor is required, so appropriate mitigation can also be secured.

- 2.3.4 The Tilbury Link Road has not been included within the Application submitted to the Secretary of State/Planning Inspectorate. PoTLL are keen to ensure that LTC is constructed in a way that enables the Tilbury Link Road to be brought forward in the future. This includes the design and construction of the junction north of the north portal, earth works and drainage, and enabling the haul road to form the basis of a future Tilbury Link Road.

A full breakdown of the value of the Tilbury Link Road (TLR) to the LTC Scheme, Port and Tilbury area is set out in section 5 of the WR. This includes a proposed methodology for how 'Tilbury Link Road Readiness' could be secured by the LTC DCO.

#### 2.4 **Agenda item g) ii) Utilities and transmission diversions:**

- 2.4.1 The Application includes the realignment of a number of utilities in and around the Port and PoTLL's land interests. This includes the intention to lay multi-utilities below Substation Road. The ducting in this area is full, and there are physical constraints from the conveyor serving the CMAT facility that is underground in this location. It is not clear how the Applicant proposes to deal with these constraints.

The specific impact of Work No. MU27 is set out in section 6.2 of the WR. As part of the construction of Tilbury2, PoTLL installed ducting at the request of and for use by a future LTC. It is therefore not clear why MU27 is required to follow Substation Road.

PoTLL also seek revised protective provisions, including that utilities are not to be diverted on its land without its consent. This is to ensure that PoTLL are able to manage the interaction of utilities with its development plans, ensuring that standard terms such as standoff distances do not restrict its ability to intensify and develop the Port. Revised protective provisions are provided at Appendix 9 to the WR.

#### 2.5 **Agenda item h) iii) Economic benefits re highway connectivity:**

- 2.5.1 The A1089 is a single point of failure in terms of the road connection to the Port and the Asda roundabout is a known concern. National Highways are requiring modelling of this junction for new developments in the area, but this has not been required of the LTC Scheme.
- 2.5.2 The full benefits of the LTC Scheme are not realised in the absence of a TLR, with the Applicant focusing on journey time benefits in relation to the Dartford crossing. PoTLL disagree that the LTC Scheme is providing improved access to the Port.

A review of the journey time improvements for the Port is set out in section 5.3 of the WR. This identifies that traffic originating from locations in the southeast travels by the LTC, although there is a significant change in the data suggesting traffic is behaving substantially differently in the AM peak. The traffic flows suggest around 11% of all northbound traffic using LTC in the 2045 AM peak will be destined for locations in the Tilbury area, increasing to 12% in the 2045 PM peak. This estimate does not include growth at the Port, and this traffic is required to use the Orsett Cock junction to connect with the A1089.

- 2.5.3 No detailed modelling of the Asda roundabout has been shared by the Applicant. The Transport Assessment [APP-529] states explicitly that there would be additional delays along journey time route JT13 – Station Road, Fort Road, A1089 – in all time periods in both directions “due to the project-related construction traffic, which would cause additional delays, in particular at the Asda roundabout”.

The Asda roundabout is identified as a cause of congestion during multiple phases of the Construction period, as set out in the Transport Assessment, paragraphs 8.8.12 (that notes that ‘a relatively small increase in overall traffic [on the Asda roundabout] leads to a material increase in

*additional delay*'), 8.8.33 (that confirms explicitly that additional delay is caused, particularly at the Asda roundabout, due to the addition of LTC construction traffic), 8.8.44, 8.8.55, 8.8.70 and 8.8.85.

In addition, on 26 June 2023, PoTLL wrote to the Applicant and requested provisions of any junction modelling of the Asda roundabout or advise when this would be received. No response or acknowledgement to this request has been provided. A copy of this request is provided as Appendix 1 to the WR.

### 3. **ISSUE SPECIFIC HEARING 2 – DRAFT DCO**

#### 3.1 **Article 3(3):**

3.1.1 This provision appears to allow an extraordinary amount of interference with PoTLL's powers, all of which have a statutory footing in local legislation. The immediate effect of this provision would be to make any activity of PoTLL subject to the provisions of the LTC DCO. It is difficult to see how this can be considered proportionate or necessary.

PoTLL has set out its analysis of article 3(3) in Row 7 of Table 1 in Appendix 4 of the WR. The provision is designed to ensure the project is not impeded by some unknown local enactment. It is not intended to manage a complex interaction with an operational statutory undertaking. As drafted, this provision would constitute serious detriment to PoTLL.

#### 3.2 **Statutory undertakers and apparatus:**

3.2.1 PoTLL is a statutory undertaker with duties as a statutory harbour authority. PoTLL is seeking protection from the use of compulsory acquisition and temporary possession powers over its operational land and land that is held by PoTLL for the purposes of its statutory undertaking, unless this is done with PoTLL's agreement. This is to ensure that powers such as the movement of utilities are not exercised in a way that restricts or inhibits future use and development of the Port.

Revised protective provisions have been provided as Appendix 9 to the WR. These set out the extent of the protections that PoTLL requires to ensure no serious detriment is caused to its undertaking. An overview of the framework agreement being sought by PoTLL is provided at Appendix 7, and a draft Construction Traffic Management Protocol is provided at Appendix 8 showing areas where agreement has been reached and those matters under discussion and still outstanding.

#### 3.3 **Disapplication or amendment of legislation and statutory provisions:**

3.3.1 It is not clear how article 55(5) will operate in practice, in particular in respect of a number of Requirements contained in the Port of Tilbury (Expansion) Order 2019. For example, it is unclear how, in the event of a breach of air quality monitoring or noise requirements, it will be possible to identify whether this is due to the LTC or actions taking place on the Port. It also does not extend to any other licence, permit, or other protection such as those for protected species. Finally, there is no requirement to remedy a breach, once this has occurred.

Consideration of the efficacy of Article 55(5) is set out in Row 19 of Table 1 in Appendix 4 of the WR.

PoTLL recognise that this article is unlikely to be the best place to manage the potential interaction with PoTLL's European Protected Species licences, but is keen to ensure that proper consideration is given to this aspect.

Revised protective provisions (Appendix 9) and an overview of the proposed framework agreement (Appendix 7) are intended to manage the specific interaction between the LTC and the ongoing obligations and Requirements of the Port of Tilbury (Expansion) Order 2019.

3.4 **Article 18 Powers in relation to relevant navigations or watercourses:**

- 3.4.1 These powers are extremely broad and the threshold for use is simply that it is 'reasonably convenient'. The power is held over the river Thames and therefore extends into the Port of Tilbury and Tilbury2. No limitation on this power is included within the protective provisions for PoTLL.

Revised protective provisions, including protection from the use of this power, are included in Appendix 9 of the WR.

PoTLL note the Applicant's reference in its response to Annex A to the Agenda of ISH2 [AS-089] that there is protection in the protective provisions for the PLA, however this is limited to article 18(1)(e) only, being interference with the navigation of the river Thames. This is insufficient to protect PoTLL's undertaking from serious detriment.

3.5 **Dredging depth:**

- 3.5.1 PoTLL support the submissions made by the Port of London Authority in respect of the concerns as to dredging depth.