



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 PORT OF TILBURY LONDON LIMITED'S WRITTEN  
REPRESENTATION**

**Deadline 1: 18 July 2023**

## **1.1 Incorporation of and Updates to PoTLL's Relevant Representation**

- 1.1.1 The Port of Tilbury London Limited (PoTLL) request that the Examining Authority (ExA) treat PoTLL's Relevant Representation [RR-0863] (PoTLL's RR) as the starting basis for its Written Representation (WR). Section 2 of the WR provides an update to the comments within PoTLL's RR.
- 1.1.2 Whilst PoTLL remain concerned as to the impacts of construction traffic on its statutory undertaking, progress has been made in respect of a Construction Traffic Management Protocol. The draft Protocol, indicating areas of agreement, is provided as Appendix 8 to the WR.
- 1.1.3 In respect of Ecology, matters remain largely unchanged, however PoTLL has recently shared invertebrate data with the Applicant free of charge, that was collected at PoTLL's expense. It is hoped that the Applicant will use this further environmental information to update its impact assessments and mitigation/compensation provisions.
- 1.1.4 PoTLL has entered into leases and an agreement with the Applicant to facilitate Work Nos. CA5/CA5A. A number of matters were left out of the agreement, to be dealt with in the Framework Agreement. The Applicant has confirmed that it does not require two areas of land within plot 21-10; discussions are ongoing on how to manage this, with PoTLL considering that these areas should be removed from the Order limits.

## **1.2 Further Submissions**

- 1.2.1 Section 3 of the WR explains in more detail the operational nature of the Port as an 'open port' and what this statutory duty means in practice, with the aim that this context will provide better understanding and clarity as to why PoTLL as harbour authority for the Port, is particularly concerned about the impact of the LTC Scheme, the lack of clarity and lack of clear, binding commitments that the Applicant is willing to agree to, and why this flexibility is accompanied with increased risks to the Port that could be avoided, managed and mitigated against simply, were the Applicant willing to do so.
- 1.2.2 The Port is a dynamic operation that is critical to the economy. It must remain open to vessels at all time, and a functioning road and rail connection is key to this. The Port has a single point of failure for its road network, being the A1089, and PoTLL's priority is to maintain this operational road connection throughout the duration of the construction of the LTC Scheme.
- 1.2.3 Section 4 of the WR, Traffic and Transport, provides further detail about the construction traffic impacts and how these could be reduced, as well as looking at specific concerns around roads within the Port. This section covers how the impacts could be reduced, the need for junction modelling that includes construction traffic, and the suitability of the outline Traffic Management Plan for Construction.
- 1.2.4 The ASDA roundabout is identified as a risk factor for major congestion by the LTAM wider model used by the Applicant, by National Highways when responding as a consultee to new planning applications, and by PoTLL in its experience obtained during the recent construction of Tilbury2. Modelling this junction is required in order for the Applicant to have adequately conducted its environmental impact assessment. The Applicant risks there being materially new or materially different environmental effects if it leaves modelling until after consent is granted.
- 1.2.5 A commitment to utilising the CMAT facility at Tilbury2 would avoid many impacts associated with construction traffic. Commitments within the outline Materials Handling Plan would also help avoid impacts. These measures would apply the mitigation hierarchy, and provide clarity as to the extent of the impacts of the LTC Scheme.

- 1.2.6 PoTLL requested a copy of any junction modelling undertaken at the Asda roundabout from the Applicant on 26 June 2023. No response or acknowledgement to this letter has been received; the letter is provided as Appendix 1 to the WR.
- 1.2.7 The outline Traffic Management Plan for Construction is insufficient to mitigate the impacts that PoTLL is concerned with. PoTLL has suggested a Port-specific protocol to the Applicant and this is part-agreed. A copy of the Protocol is provided at Appendix 8 to the WR.
- 1.2.8 Section 5 of the WR sets out the reasons why the LTC Scheme should be designed and constructed to be Tilbury Link Road (TLR) ready. This includes a review of the economic benefits, both subjective benefits and the objective benefits to journey time. An estimate, based on the Applicant's modelling for the year 2045, of the quantity of traffic to the Port has been provided. This traffic will be required, following completion of the LTC Scheme, to use the Orsett Cock roundabout due to the lack of any direct connection, further supporting and justifying the importance of 'TLR-readiness'.
- 1.2.9 There are numerous economic benefits to the TLR, including reduced journey times and increased resilience to the Port. Assessment of the Applicant's Transport Assessment identifies that journey time improvements for travel to the Port is associated with using LTC, but these improvements could be greater with a TLR. Journey times using the Orsett Cock junction would also be improved through the removal of Port traffic from it enabled by a TLR.
- 1.2.10 PoTLL has set out a mechanism by which TLR-readiness may be achieved within the LTC Order, without the need for a change application, in section 5.5 of the WR. PoTLL consider that the benefits of including TLR-readiness will help to improve the LTC Scheme's low benefit/cost ratio, as well as providing improved legacy value for the local area.
- 1.2.11 Section 6 of the WR sets out specific interactions with the Port that PoTLL is concerned with. Multi-utility Work No. MU27 is to be laid under Substation Road, however PoTLL do not understand why this is necessary, the extent of this work, and is concerned that the Applicant's plan is not possible due to physical constraints in the area.
- 1.2.12 Under the current drafting, in particular article 3(3), the byelaws of the Port would be subject to the LTC DCO. The priority of rail on the level crossing is therefore at risk and must be secured. As currently drafted there is no mechanism for the management of construction workers, and PoTLL seeks to secure specific travel routes within the construction travel plan for the construction compounds adjacent to the Port.
- 1.2.13 PoTLL has also not seen any safety risk assessment, completed in accordance with the Design Manual for Roads and Bridges, GG104, for the use of and interaction with the Port, that PoTLL considers should be carried out without delay. This may also help to clarify how the LTC Scheme will interact with the Port in practice.
- 1.2.14 Section 7 sets out the potential impacts to the Port of a delay to the LTC Scheme. In the event of delay, the baselines for ecology and traffic will become out of date, with potentially significant impacts to the Port. A coordinated approach to ecological mitigation is required to ensure future development at the Port is not inadvertently stifled, and traffic baselines must be updated to ensure that any mitigation required to offset the impacts of the LTC construction traffic are identified and implemented. If a delay became extensive, this may impact PoTLL's ability to develop the Port, with the expiry of the leases of July 2036 being a 'long stop' date for the LTC Scheme to be completed.
- 1.2.15 Section 8 considers policy and the planning balance, including the National Policy Statement for Ports (NPSP) which, in PoTLL's view, should be an important and relevant matter for consideration by the relevant Secretary of State when determining this application for development consent. By reference to Thanet Offshore Extension Wind Farm and the Lake Lothing (Lowestoft) Third Crossing nationally significant infrastructure projects, PoTLL set out the reasons why the NPSP is a material consideration. The potential for serious detriment is not constrained to the compulsory acquisition of relevant plots, but includes the impact of the project that requires that compulsory acquisition.

- 1.2.16 PoTLL also set out the concept of 'agent of change', contained within the National Planning Policy Framework, as it applies to the LTC Scheme and its potential impacts for the Port and PoTLL's undertaking. The impacts on the Port are not static and the Applicant must consider this in how it seeks to mitigate the impacts of the Scheme, on the Port and other developers.
- 1.2.17 Finally, section 9 of the WR, provides an introduction to PoTLL's review of the draft DCO. This links to Table 1 in Appendix 4 responding to the matters identified by the ExA in Annex A to the Agenda to Issue Specific Hearing (ISH) 2, and Table 2 in Appendix 5 identifying other drafting matters in the draft DCO that raise concerns.
- 1.2.18 PoTLL's concerns in respect of the Draft DCO are in summary:
- (a) article 3(3) subjugates the enactments underpinning its statutory undertaking as harbour authority to the LTC DCO; this is far in excess of the scope of section 120 of the Planning Act 2008. The enactments establishing PoTLL as harbour authority must be excluded from the application of this provision;
  - (b) article 13 (private roads) creates an onerous alternative regime to compulsory acquisition of an access right. Where the Applicant requires access over private roads, it should seek this directly, rather than via this provision;
  - (c) article 55(5) relates to the potential for breach of the requirements of the Port of Tilbury (Expansion) Order 2019 only, but must go further to cover other provisions and obligations within that Order;
  - (d) article 6 and/or the protective provisions for the PLA must be amended to ensure that the maximum dredging depth is secured within the DCO, to avoid potential conflict;
  - (e) requirements 5 and 10 (landscaping and ecology, and traffic management) should incorporate a provision requiring the baseline data to be updated, to account for delays between the assessments being undertaken and the construction of the LTC Scheme commencing.
- 1.2.19 PoTLL also seeks comprehensive protective provisions, ensuring the powers in the DCO cannot be carried out in respect of its undertaking without PoTLL's agreement. Revised protective provisions are provided at Appendix 9 of the WR.
- 1.2.20 Recognising that the protective provisions will operate in tandem with a side agreement, PoTLL has provided an overview of the Framework Agreement that it is seeking from the Applicant at Appendix 7 of the WR.