

THE PROPOSED A122 (LOWER THAMES CROSSING) DEVELOPMENT CONSENT ORDER

**Written submissions of oral comments
made at ISH1 (21 and 23 June 2023) and ISH2 (22 June 2023)
submitted on behalf of
the Port of London Authority**

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1. Introduction

- 1.1. This is a written submission made on behalf of the Port of London Authority (**PLA**) in respect of oral submissions made at:
 - 1.1.1. Issue Specific Hearing 1 on project definition, held on 21st and 23 June 2023 (**ISH1**); and
 - 1.1.2. Issue Specific Hearing 2 on the draft Development Consent Order, held on 22 June 2023 (**ISH2**).

2. Summary of oral submissions made by the PLA at ISH1 on Project Definition

Agenda item 4 – ExA Questions on Project Definition

c) Effects of the two-year rephasing in capital funding

i Is there sufficient scope within the Rochdale Envelope for the proposed development (affects as assessed in the Environmental Statement (ES)) to take account of the two-year rephasing in capital funding that has occurred in the period between the acceptance of the application and the commencement of the Examination?

- 2.1. The PLA has environmental and conservancy responsibilities for the River Thames (the **river**), and so has an interest particularly in the dates of various surveys identified in the Environmental Statement (**ES**), (APP-138-155), that have been carried out for terrestrial biodiversity (APP-146), marine biodiversity (APP-147), ornithology (APP-396), and air quality (APP-346). The PLA also has queries about the effect of a delay on the Water Framework Directive assessment, (APP-478).
- 2.2. In terms of the dates of surveys, the surveys informing the terrestrial biodiversity (APP-146), marine biodiversity (APP-147) and other chapters and the Habitats Regulations Assessment (APP-488) are potentially already out-of-date, with the most recent surveys being carried out in 2019. The data for seals is older still, dating from 2013-2014, being now almost ten years ago, and twenty years away from the earliest proposed opening date of the project. The air quality chapter of the ES (APP-143) has similar issues in that the older the data, the less relevant the baseline.
- 2.3. This makes a 2 year delay problematic as the baseline could have altered significantly in the years between the surveys being carried out and work commencing. The PLA would expect an updated baseline to address any potential changes in the baseline and therefore the assessments on which they are based.
- 2.4. The PLA also query the effect of a two-year delay on the Water Framework Directive assessment (APP-478). In the PLA's view, an updated assessment is required if there are significant changes to the project or if the water body classification is updated. Such an update to the status of the water body last happened in 2019.
- 2.5. In terms of updating these surveys, and looking to the Register of Environmental Actions and Commitments (**REAC**) (APP-336) in the Code of Construction Practice, the PLA has not been able to identify that the document includes any commitment to update the

surveys and the environmental baseline to take account of any delays to the project, such as this two-year rephasing.

- 2.6. The PLA would welcome the Applicant's justification of how the older surveys, and therefore the baseline, remain relevant, particularly given the two-year delay and that the opening will be not be before 2032, and would support a request from the ExA for further information on this point.

ii What is the effect on construction duration and environmental effects of the proposed use of a single tunnel boring machine (TBM)?

- 2.7. The PLA has a question around the effect on the environmental assessment as reported in the ES Environmental Statement of switching to a single boring tunnel machine (**TBM**).

- 2.8. The Applicant's original proposal was to have two TBMs running, to a large extent concurrently. This would have resulted in a shorter construction timetable than using a single TBM, which will take longer, not just because there is then no concurrent working but also because the TBM has to turn around on the south side before tunnelling back across the river.

- 2.9. The Applicant has indicated that a single TBM will necessitate works beginning ten months earlier, and there will therefore be an increase in early phase activity. The Applicant has indicated that it intends to submit an Addendum to the ES at Deadline 1, which amends the description of the project. Consequently, the PLA would like to see evidence on which the Applicant relies to justify that there will be no new or different environmental effects arising from increasing early-phase construction activity.

e) Routing and intersection design

iii Has adequate provision been made in the proposed LTC design for port access (referring specifically to Tilbury, Tilbury 2, DP World London Gateway Port and extension) and for access to other proposed and emerging business, industrial and employment uses of land?

- 2.10. The PLA supports the Port of Tilbury and London Gateway with their positions as the largest terminals within the Port of London.

- 2.11. It is important to consider the wider issue of the Freeport designation and maximising the benefits and opportunities deriving from it, including 21,000 new jobs; £400 million port investment; 1,700 acres of development land; £2.6 billion additional GVA and over £4.5bn in new public and private investment.

- 2.12. Over 57.7 million tonnes of freight was handled at terminals within the Port of London in 2022 and London Gateway and the Port of Tilbury combined handled over 50% of this trade. Appropriate port access is therefore key to the UK's supply of food and other goods.

f) Mitigation design and delivery

ii. Can the extent of land take and acquisition for mitigation be fully justified as addressing need arising from LTC?

- 2.13. The PLA has concerns about the extent of powers being sought by the Applicant for the tunnel are, in the PLA's view, greater than are needed and potentially give rise to constructability issues. The issues concerned are complex and will be addressed by the PLA at the appropriate time during the course of the examination.

- 2.14. Notwithstanding which, the PLA wishes to flag that the extent of land take and acquisition is greater than it would expect to see, even from a scheme of this size and complexity. A simple example to illustrate this is the extent of rights being sought for the northern outfall. The Applicant is seeking to drain water from the tunnel via the northern tunnel portal site, and from there into the river. This is during both during construction and operation of the project.
- 2.15. A typical outfall on the river would be between 400mm to 1m in diameter. The temporary northern outfall will be a maximum of 1 metre, as identified in chapter 9 of the ES - Marine Biodiversity (APP-147).
- 2.16. According to the Applicant, the northern outfall will be located somewhere within an area which is approximately 176 square metres, which falls predominantly within Plot 16-64. That is itself an arguably large area for an outfall. The PLA has noted that the Applicant is seeking to provide flexibility in the design; however, the area in the draft DCO over which the Applicant is seeking rights needed for this outfall – and which covers four distinct plots – is an area of over 158,000 square metres (according to the PLA's GIS drawings and rough calculations).
- 2.17. This has the effect that the area over which the Applicant is seeking rights for the outfall is some 900 times greater than the area in which the Applicant might locate the outfall.
- 2.18. The PLA does not dispute that flexibility is needed in the design and construction of such schemes, but the question is one of degree. The PLA is in active discussions with the Applicant on the geographical extent of its powers.

h) Economic benefits

iii Is any adjustment to economic benefits necessary, given submissions from Ports to the effect that the lack of local highway connectivity to the waterfront could reduce local journey time reliability and have negative economic impacts on port operations?

- 2.19. In addition to matters of road connectivity, ports operations can also be negatively affected by river connectivity. The PLA has raised issues separately in respect of the engagement of tunnel depths and dredging. Albeit discussions with the Applicant on this subject are ongoing, on the basis of the information that has been shared with the PLA to date there is concern about preserving future access to the Port of London. There would be an economic disbenefit if access was detrimentally affected in any way.
- 2.20. Consequently, the PLA seeks clarification from the Applicant as to what the economic and other consequences would be of restricting future river access to the Port of London.

3. Summary of oral submissions made by the PLA at ISH2

Agenda item 4 – ExA's Questions on the dDCO

a) The structure of the dDCO

- 3.1. The PLA accepts that precedents are useful and indeed necessary in drafting DCOs, as set out in Advice Note 15¹. The Applicant has looked to its own highways DCOs as precedent, and to DCOs under the river. However, the latter relate to projects that are very much further upstream than the location of this project. That means that the precedents used do not take into account the size of the river at this location, the much higher levels of traffic at this location and the high volumes of river trade. The PLA wishes to emphasise the fact that DCOs are flexible, and need to adapt to the specific circumstances of a project and its geographic location. In recognising the need for precedents, the PLA would also point to the fact this project, by its nature is to a degree unprecedented, and therefore, relying solely on precedent is not always an appropriate approach.
- 3.2. Ports in England and Wales handle 95% of total volume of UK trade and 75% of its value. The Port of Tilbury and London Gateway make significant and essential contributions to the UK trade and the economy in addition to their environmental benefits. (See also paragraph 2.12 above.) Unless adequate protection is provided for the PLA – and in particular its continued ability to dredge in the river to an appropriate depth without putting the tunnel at risk – current and future access to the Ports of London will be threatened, restricting the supply of food and other goods into this country.
- 3.3. In terms of an approach to drafting the DCO, there are two interests that need to be balanced. First, the Applicant wishes to construct a tunnel beneath the river. Secondly, the PLA manages the river and has responsibility for ensuring that vessels and trade can pass freely through the river. The importance to the country of ensuring the free flow of goods through the port is evident.
- 3.4. There is a need to balance the fact that the Applicant intends to construct a tunnel underneath the river, with the fact that the river will need to be dredged to protect future commercial operations. Vessels which use the river are getting larger and deeper, and there is an expectation that in coming years the river will need to be dredged to a greater depth.

e) Tunnelling provisions

- 3.5. The Applicant plans to construct the tunnel at the depths shown on the plans submitted as part of the application for the dDCO.
- 3.6. Working upwards from the level of the tunnel, the plans provide for an upwards limit of deviation and, above that, the tunnel cover that is required as set out in the ES.
- 3.7. Working downwards from the riverbed, the navigational channel must be maintained to 12.5m, with a 0.5m overdredge, as set out in paragraph 99 of Schedule 14 to the dDCO (APP-056).
- 3.8. According to the PLA's calculations, if the Applicant exercises the upwards limits of deviation, and wants to keep the tunnel cover that it has identified as being necessary in

¹ <https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/advice-note-15/>

the ES, the PLA will not be able to dredge to the extent the Applicant has suggested. The two are in direct conflict. It is not clear to the PLA which of these elements will take precedence, but the PLA is concerned that its hand will be forced into scaling down its future dredging plans. The PLA has been told by the Applicant that this is not a concern, but the PLA would appreciate a detailed explanation from the Applicant as to how it has reached this conclusion, in light of the points made above.

j) *ExA observations on drafting*

Annex A – 2. Flexibility of operation

- 3.9. As noted above, in the PLA's view, there is more flexibility than the PLA would expect to see, even for a scheme of this size and complexity, noting other, similar schemes. The definition of authorised development, for example, is wide; the PLA suggests that, in line with other DCOs made for infrastructure in the area of the river, the definition should be restricted to the works identified in Schedule 1 to the dDCO.
- 3.10. The extent of the land take and acquisition is also much greater than the PLA would expect to see, and an example of the extent of the flexibility that is built in to the Scheme, which illustrates the extent of the PLA's concerns, is the extent of rights being sought for the northern outfall (see paragraphs 2.14 to 2.18 above).