



PORT OF
TILBURY
LONDON

Section 56(2) Planning Act 2008

**Application by National Highways
for an Order Granting Development Consent for the
Lower Thames Crossing
Planning Inspectorate Reference: TR010032**

PRINCIPAL AREAS OF DISAGREEMENT SUMMARY

Deadline 3: 24 August 2023

PRINCIPAL AREAS OF DISAGREEMENT SUMMARY STATEMENT

This table summarises the principal areas of disagreement between PoTLL and the Applicant, and how the Applicant could seek to resolve these. This table has been updated in accordance with the Rule 8 letter requesting updated PADSs at each deadline.

Topic	Summary of issue	Suggested solution(s)	Likelihood of concern being addressed	Covered in SoCG? ¹	Updates
Traffic	<p>Asda Roundabout Hard Mitigation – Outline Traffic Management Plan for Construction (oTMPfC) has no mechanism for delivery of mitigation if modelling indicates issues will occur.</p> <p>This is compounded by:</p> <ul style="list-style-type: none"> no junction modelling having been undertaken to date despite the TA showing delays; and Asda Roundabout not forming part of the Order limits and no certainty that permitted development (PD) could be used. 	<p>Junction assessments to be provided to PoTLL.</p> <p>Tighter wording in the oTMPfC to ensure and deal with process for mitigation being delivered.</p> <p>Draft traffic protocol to be developed and agreed.</p> <p>Order limits to be extended to include Asda Roundabout.</p>	<p>Low – Applicant has not indicated or confirmed that these assessments have been carried out and there is no confirmation or acceptance that Order limits need to or should change. PoTLL considered that Pre-Examination would have been the most appropriate time to action this.</p> <p>Medium - Some progress is expected to be made through ongoing discussions on oTMPfC and through development and agreement of a traffic protocol.</p>	Yes, but not Order limits extension	<p>Junction assessments formally requested 26 June 2023. No response or acknowledgement received to date.</p> <p>Draft traffic protocol sent to Applicant on 4 May 2023. Recent discussions with the Applicant indicate the majority of this protocol now agreed in principle. Updated traffic protocol indicating areas of agreement is provided as Appendix 5 to PoTLL's written representation.</p> <p>Order limits a 'redline' issue for Applicant. No change or progress.</p> <p>Deadline 3 update: Junction modelling of ASDA roundabout during construction and operation being undertaken by the Applicant, to be submitted at Deadline 3. PoTLL will review this when published.</p> <p>Comments on the updated traffic protocol have been received and PoTLL are continuing to negotiate this with the Applicant.</p>
	oTMPfC soft measures – insufficient recognition of needs of a working Port alongside traffic.	<p>oTMPfC to be updated to provide for more proactive and reactive mechanisms for PoTLL involvement, traffic management and Port traffic priority.</p> <p>Some aspects of this may form part of a legal agreement.</p>	Medium	Yes	<p>Improved escalation and incident response now agreed. Concerns remain in respect of mitigation of construction traffic impacts. Applicant has now agreed that Port traffic will have priority.</p> <p>Deadline 3 update: Comments on the updated traffic protocol have been received and PoTLL are continuing to negotiate this with the Applicant.</p>
	Outline Materials Handling Plan (oMHP) as mitigation: commitment needs to be stronger to utilise Port of Tilbury generally, a requirement to use the CMAT, and PoTLL needs better understanding of impacts to movements in and between Tilbury1 and Tilbury2 and the North Portal Construction Compound as a result (including right turns on St Andrews Road from Tilbury1).	<p>Applicant to share detailed HGV movement estimates with PoTLL within Tilbury area as a result of commitment as it currently stands.</p> <p>Updates to be made to the oMHP in line with PoTLL's concerns.</p> <p>Legal agreement to deal with mechanisms to allow for passage for agreed vehicle numbers.</p>	Medium	Yes	<p>Detailed HGV movement estimates not provided to date.</p> <p>The Applicant has not added PoTLL as a consultee in the oMHP.</p> <p>Deadline 3 update: PoTLL has instructed its solicitors to draft the framework agreement that will include</p>

¹ Column included at request of the Applicant. Where matters are not previously covered in the SoCG, this is because the issue has only arisen now that detailed application documents are available for the first time.

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					management of LTC traffic and other interactions with the Port. PoTLL continue to request that it is added as a consultee to the oMHP, and require clarity as to the number of anticipated HGVs, but note that this may be significantly different if the CMAT is or is not used.
	Inclusion of Freeport in Modelling – without this, impacts are going to be underestimated – PoTLL must deliver during LTC construction period.	Modelling data to be provided.	Low – Applicant has consistently refused to undertake modelling or sensitivity modelling for Freeport development to date.	Yes	Applicant advises this is a ‘redline’ issue and has therefore not undertaken or shared modelling or sensitivity modelling for cumulative impacts of Freeport development. Deadline 3 update: The position remains as at Deadline 1.
	Framework Construction Travel Plan – (FCTP) mandatory mode share targets to be introduced and PoTLL to be a consultee.	FCTP amended accordingly.	Medium	No	Applicant has indicated willingness to add PoTLL as a consultee on the Site Specific Travel Plans relating to access via the A1089 road link to the Port, but mandatory mode share not currently secured.
	Methodology concerns raised in Relevant Representation relating to PoTLL concerns that some impacts may be underestimated rather than providing for likely worst case.	Technical Note responding to these concerns to be submitted to Examination. Depending on content of that Technical Note, further modelling may be required.	Low	No	Applicant advises some items in the RR are ‘redline’ issues. Methodology concerns around modelling remain outstanding. A number of documents and checks requested from the Applicant remain outstanding, as set out in PoTLL’s written representation. Recent progress on the traffic management protocol has seen agreement on an improved escalation procedure and an in-principle agreement around monitoring. Modelling of construction traffic impacts remains an outstanding issue. Deadline 3 update: Junction modelling of ASDA roundabout during construction and operation being undertaken by the Applicant, to be submitted at Deadline 3. PoTLL will review this when published. Comments on the updated traffic protocol have been received and PoTLL are continuing to negotiate this with the Applicant.
	Powers to suspend traffic on St Andrew’s Road and Port Infrastructure Corridor mean that traffic could be prevented from accessing/egressing the Port.	Such powers to be subject to PoTLL’s consent in the Protective Provisions.	Medium	No	Agreement has been reached as to the traffic management measures that will be possible on the A1089, with no measures being required south of Marshfoot Road.

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					<p>Details of the extent of agreement, as PoTLL understands it, are set out in Appendix 5 to PoTLL's written representation.</p> <p>Deadline 3 update: Comments on the updated traffic protocol have been received and PoTLL are continuing to negotiate this with the Applicant.</p>
	Fort Road to be discounted from use for construction purposes.	Commitment in the oTMPfC.	Medium	Yes	<p>Applicant advises this is a 'redline' issue. No clarity has been provided over the extent to which Fort Road is to be used for construction purposes.</p> <p>Deadline 3 Update: The Applicant has clarified in the SoCG that Fort Road will serve as a connection to access Station Road, and be required for delivery of the tunnel boring machine (TBM). PoTLL recognise that the TBM will need to use a small section of Fort Road, however this route is limited to what is required to avoid going under the bridge at the entrance to Tilbury2, and will involve the TBM cutting across PoTLL's land to rejoin Substation Road, being the same route as agreed for AILs required for the Thurrock Flexible Generation Plant.</p> <p>Aside from its necessary use, limited to this small part of Fort Road, and for abnormal indivisible loads (AILs) that are too large to fit under the bridge only, PoTLL maintain that Fort Road should not be used during construction unless the infrastructure corridor is not available.</p>
Land	LTC land requirements are all within PoTLL's statutory undertaking and will cause a serious detriment.	Discussions are on-going in respect of negotiated agreements for specific areas of land, but PoTLL requires that all land and works powers within its land must be subject to its consent via the protective provisions. This includes the conveyor 'finger' of land. Legal agreements between the parties will deal with the practical mechanisms of this consent.	Medium	Yes (in general terms)	<p>Leases and an agreement agreed for four areas of land. Some matters reserved for framework agreement and protective provisions (yet to be agreed and finalised), eg a contamination regime.</p> <p>Deadline 3 update: The position remains as set out in Deadline 1.</p>
	Utilities – PoTLL must be involved in the moving of existing utilities, the creation of new utility routes or works which will interfere with	PoTLL approval to the compulsory acquisition of rights to be subject to its consent via the Protective Provisions.	Medium	Yes (in general terms)	<p>Leases and an agreement agreed for four areas of land. Some matters reserved for framework agreement and protective</p>

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	existing utilities within the Port as this will fundamentally affect the current and future working of the Port.	Legal agreements between the parties will deal with the practical mechanisms of this consent.			provisions (yet to be agreed and finalised), including involvement of PoTLL in utilities movement. Awaiting draft framework agreement to see how the Applicant proposes to manage this. Deadline 3 Update: PoTLL has instructed its solicitors to draft the framework agreement that will include the management of utilities and the practical mechanisms for consent to use compulsory acquisition powers.
	Plot 21-10 to be removed from the Order limits as the land is currently being marketed for use by PoTLL as part of Tilbury2.	Plot removed from Land Plans.	Medium	No	Detailed discussions have taken place, including sharing of plans. On 13 July 2023, the Applicant confirmed they do not require the two areas within plot 21-10 that are being marketed. PoTLL considers that, as it is now confirmed these areas are not required by the Applicant, these areas should be removed from the Order limits and disagrees with the Applicant's proposal of including a provision in the protective provisions. Detailed discussion is set out within PoTLL's written representation. Discussions with the Applicant are ongoing. Deadline 3 Update: The position remains as set out at Deadline 1.
	Errors in the Book of Reference.	Book of Reference to be corrected in line with comments in Appendix 2.	High	No	Corrections provided to Applicant; We understand the corrections are proposed to be made in the next revision of the BoR. Deadline 3 update: PoTLL has reviewed the revised BoR and notes the changes largely correspond with recent changes to land ownership. PoTLL continue to work with the Applicant in respect of the detail of the land within the Port.
Design and construction methodology	More detail and protective mechanisms need to be put in place to deal with: <ul style="list-style-type: none"> how the Tilbury Link Road (TLR) could be brought forward in the context of the development of the haul route; 	Predominantly to form part of separate legal agreements between the Parties, however PoTLL may seek amendments to the DCO and related documents, in particular in respect of the haul road/TLR and drainage, to ensure that appropriate design principles are secured.	Medium	Yes (in general terms)	TLR a 'redline' issue for the Applicant. The Applicant has said both that the haul road could be left in situ at the landowner's request, and that it could not be left in situ without a separate planning permission.

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	<ul style="list-style-type: none"> • how the earthworks for the LTC scheme (particular those associated with Work No. 5 and CA3) will be carried out and left in situ (including strata and landform); • the management of contamination risk; • construction and operational drainage and how they will be future proofed and interact with PoTLL's Freeport proposals; • the emergency evacuation procedures for the tunnel given the northern portal is located adjacent to the Freeport land; • the development of utility provisions and commitments to PoTLL's ability to deal with future requirements; • the design of the junctions and roads contained within Work No. 5 to account for future traffic flows (or 'future proofing' to do so); and • how land temporarily possessed by LTC will be 'handed back' to PoTLL to enable its use for Freeport purposes. 				<p>Design of junctions and roads to account for future traffic flows also a 'redline' issue for the Applicant.</p> <p>PoTLL await the draft framework agreement from the Applicant. Applicant confirmed it was drafting this on 27 April 2023. No draft has been received to date.</p> <p>Proposals as to how TLR-readiness could be achieved are set out in PoTLL's written representation, for comment by the Applicant.</p> <p>Deadline 3 update: PoTLL has instructed its solicitors to draft the framework agreement that will include management of LTC traffic and other interactions with the Port and to seek to facilitate expeditious delivery of the TLR in the context of the constraints of the DCO.</p>
River concerns	Amendments required to drafting of article 48, tunnel limits of deviation plan and river restrictions plan to allow for future dredging and construction of the tunnel.	Workshop to be held with PLA, PoTLL and the Applicant to agree amendments to be made.	Strong – it is understood that the Applicant agrees in principle, but points of detail will need to be discussed and resolved to both PLA and PoTLL satisfaction.	River issues in SoCG at high level – detailed matters not yet included.	<p>Workshop held 15 March 2023. PoTLL understand uncertainty around the tunnel limits of deviation plan overlapping with the dredging depths requirements has not been resolved to PLA's satisfaction. Explicit protection of dredging depth in the DCO yet to be secured. PoTLL understand that further drafting is to be proposed following discussions between the Applicant and the PLA, but that the PLA continues to have concerns about this. PoTLL will consider the drafting further once it has been submitted.</p> <p>Deadline 3 update: The Applicant has made drafting changes that seek to secure the dredging depth, however it has not updated the tunnel limits of deviation plan to show this. The Applicant has also removed any reference to the amount of cover required</p>

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					above the tunnel for this to be safely constructed, maintained and operated. PoTLL remain concerned that the design of the tunnel will need to be amended to account for the lower upwards limit of deviation for the tunnel, and the work to confirm the tunnel design is possible, and does not result in new or different environmental effects, has not been undertaken.
	Wide ranging powers in article 18 need to be subject to PoTLL's consent.	Article 18 to be brought into the ambit of the Protective Provisions.	Medium.	River issues in SoCG at high level – detailed matters not yet included.	Applicant advised 'redline' issue until the extent of this provision was explained. Applicant agreed to consider further on 15 March 2023; no response received to date beyond submissions made by the Applicant in ISH2. Deadline 3 update: PoTLL welcome the confirmation from the Applicant that it is reviewing the draft protective provisions submitted within PoTLL's written representation, including the protection from the use of this article. PoTLL has received comments back on these from the Applicant and will be considering these alongside the development of the Framework Agreement.
Ecology	Baseline information – further baseline information is required in respect of habitats, invertebrates, ornithology, badgers, bats and water vole and reptiles as the information is out of date. This is needed to ensure that LTC's proposals will 'work' and dovetail with the requirements of the Tilbury2 DCO and PoTLL's future aspirations.	In the first instance, LTC to provide a Technical Note to PoTLL to confirm its position. Following review of this, further surveys may be necessary.	Low	No	LTC requested data from PoTLL's 2022 invertebrate survey on 14 June 2023. Data freely supplied to the Applicant on 4 July 2023, all at PoTLL's cost (note this data has also been freely provided by PoTLL to Natural England). No requests have been made to access PoTLL land for ecological field survey, and no further detail of the design and required mitigations has been provided to date. A summary of the remaining concerns are set out in PoTLL's written representation. Deadline 3 update: PoTLL await the outcome of the Applicant's review of the invertebrate survey data.
	Mitigation – more detail is required on the mitigation measures proposed to be implemented to understand if they will work.	In the first instance, LTC to provide a Technical Note to PoTLL to confirm its position. Following review of this, a more detailed LEMP may need to be prepared.	Medium	Yes	No further detail of the design and required mitigations has been provided to date, e.g as to whether a conveyor is required directly impacting Tilbury2

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					<p>secured and implemented ecological mitigation areas. A summary of the remaining concerns are set out in PoTLL's written representation.</p> <p>Deadline 3 update: The position remains as at Deadline 1.</p>