



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 STATEMENT

Deadline 6: 31 October 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 PADSSs at each deadline.

Please note, this update has been provided at Deadline 6 in accordance with PoTLL's intention to document progress made in negotiations of a Framework Agreement with the Applicant, and Action Point 7 from CAH3. This update was intended to record the progress agreed and documented in a revised draft Framework Agreement, to be provided by the Applicant's solicitors on Friday 27 October 2023, following the productive meeting that took place on 12 October 2023.

The revised draft Framework Agreement was provided at 14:00 on 31 October 2023, leaving insufficient time to review in detail. However, an initial review of the revised draft Framework Agreement shows that there has not been as much progress as PoTLL had thought, with some fundamental points of principle still not agreed, including PoTLL having appropriate oversight of utilities provision in Substation Road. PoTLL will strive to get negotiations back on track, including at a further meeting with the Applicant on 2 November 2023 but notes that this lack of progress underscores PoTLL's need for comprehensive protections in the Protective Provisions if the Framework Agreement cannot be agreed by the end of the Examination.

In view of this, the Deadline 6 updates of this document reflects the status of negotiations as PoTLL understood it to be, prior to receiving the revised draft Framework Agreement. Given the disappointing progress in the revised draft Framework Agreement provided by the Applicant, these updates **should not** be relied upon to demonstrate agreement as this has not yet been satisfactorily documented and therefore secured.

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> <p>Deadline 6 Update: PoTLL has submitted a scheme of physical mitigation for the Asda roundabout into Examination. This is provided as Appendix 1 to PoTLL's Summary of Oral Submissions. The scheme of mitigation and accompanying modelling data were shared with the</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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					<p>Applicant on 20 and 25 October 2023 respectively.</p> <p>A draft Requirement to secure the implementation of mitigation at the Asda roundabout has also been provided, with explanatory notes. This is provided as Appendices 2 and 3 to PoTLL's Summary of Oral Submissions.</p> <p>The draft Requirement will ensure that, if physical intervention is required to mitigate the construction impacts of the Scheme, this must be implemented by the Applicant.</p> <p>PoTLL understands that National Highways does not intend to adopt the draft Requirement.</p> <p>PoTLL confirms that it is not seeking physical mitigation in any event but is seeking to ensure that if it is necessary, the Applicant will be required to provide it.</p> <p>The draft protocol has been subsumed into discussions on the wider Framework Agreement. Until this is completed, PoTLL will continue to wish to include its currently proposed drafting on traffic management in its Protective Provisions.</p>
	<p>oTMPfC soft measures – insufficient recognition of needs of a working Port alongside traffic.</p>	<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>	<p>Medium</p>	<p>Yes</p>	<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> <p>Deadline 6 update: The Applicant has agreed to a detailed protocol that will apply within the Port's land being agreed post-consent on the basis of Heads of Terms contained within the Framework Agreement. This covers worker management, traffic, the priority of</p>

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					Port traffic, management of emergencies, and other practical interactions between the two undertakings.
	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 management of LTC traffic and other interactions with the Port. PoTLL continues to request that it is added as a consultee to the oMHP, and requires clarity as to the number of anticipated HGVs, but note that this may be significantly different if the CMAT is or is not used.</p> <p>Deadline 6 update: The Applicant has not committed to using the CMAT. An agreement has been reached in-principle, however, to involve PoTLL in decisions to be taken by the Applicant to manage impacts to the Port of the possible array of materials handling impacts. PoTLL has made submissions on some of the drafting of the oMHP in its Deadline 6 submissions.</p>
	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	<p>Applicant advises this is a 'redline' issue and has therefore not undertaken or shared modelling or sensitivity modelling for cumulative impacts of Freeport development.</p> <p>Deadline 3 update: The position remains as at Deadline 1.</p> <p>Deadline 6 update: The position remains as at Deadline 1.</p>
	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

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					<p>mandatory mode share not currently secured.</p> <p>Deadline 6 update: The position remains as at Deadline 1, albeit agreement has been reached for a code of practice for workers (and their movements) located on or adjacent to Port land to be agreed post consent pursuant to the Framework Agreement. The management of construction worker traffic movements and their impacts on the Asda Roundabout are accounted for in PoTLL's proposed Asda Roundabout requirement submitted at Deadline 6. This is provided as Appendices 2 and 3 to PoTLL's Summary of Oral Submissions.</p>
	<p>Methodology concerns raised in Relevant Representation relating to PoTLL concerns that some impacts may be underestimated rather than providing for likely worst case.</p>	<p>Technical Note responding to these concerns to be submitted to Examination.</p> <p>Depending on content of that Technical Note, further modelling may be required.</p>	<p>Low</p>	<p>No</p>	<p>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.</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> <p>Deadline 6 update: PoTLL's concerns around the baseline data remain. However, it is hoped that the impacts of this will be able to be limited through its proposals for new DCO Requirements, and through the traffic management protocol it is seeking to</p>

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					agree with the Applicant. Until the latter is agreed, the protections in the proposed Protective Provisions are required.
	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	<p>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. 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> <p>Deadline 6 update: The traffic protocol is agreed and includes a provision that the Applicant will not implement traffic management measures in this area without PoTLL's agreement. This needs to be secured through the final agreement between the parties of the proposed Framework Agreement.</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>

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					<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> <p>Deadline 6 update: Non-use of Fort Road other than by exception (e.g. for AILs) has been agreed but not yet documented.</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), e.g. a contamination regime.</p> <p>Deadline 3 update: The position remains as set out in Deadline 1.</p> <p>Deadline 6 update: The position remains as set out at Deadline 1.</p> <p>A detailed summary of the reasons serious detriment will be caused to PoTLL's undertaking if the Applicant is given powers of compulsory acquisition of PoTLL's land is set out in PoTLL's Summary of Oral Submissions, provided at Deadline 6, further to PoTLL's Relevant and Written Representations.</p>
	Utilities – PoTLL must be involved in the moving of existing utilities, the creation of new utility routes or works which will interfere with existing utilities within the Port as this will fundamentally affect the current and future working of the Port.	PoTLL approval to the compulsory acquisition of rights to be subject to its consent via the Protective Provisions. 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), including involvement of PoTLL in utilities movement. Awaiting draft framework agreement to see how the Applicant proposes to manage this.</p> <p>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.</p>

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					<p>Deadline 6 Update: PoTLL has met with National Highways on site to discuss Work No. MU27. National Highways is seeking to find an alternative to laying MU27 below Substation Road and PoTLL awaits the proposals in order to discuss the feasibility of any alternative.</p> <p>It is understood that agreement in principle has been reached that PoTLL must agree to any utility works on its land, or where works near to its land are likely to impact the land (e.g.. through stand-off distances). National Highways will also provide notice directly to PoTLL of utility works where these service the Port.</p>
	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	<p>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.</p> <p>Deadline 3 Update: The position remains as set out at Deadline 1.</p> <p>Deadline 6 Update: PoTLL understands that the relevant areas are to be removed from the Land Plans at Deadline 7. PoTLL hopes to see the revised plans in advance of that deadline in order to confirm that the area being removed is correct.</p>
	Errors in the Book of Reference.	Book of Reference to be corrected in line with comments in Appendix 2.	High	No	<p>Corrections provided to Applicant; We understand the corrections are proposed to be made in the next revision of the BoR.</p>

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					<p>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.</p> <p>Deadline 6 update: The position remains as at Deadline 3.</p>
Design and construction methodology	<p>More detail and protective mechanisms need to be put in place to deal with:</p> <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; • 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>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.</p>	Medium	Yes (in general terms)	<p>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.</p> <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> <p>Deadline 6 update: National Highways provided a draft Requirement 17 to facilitate the Tilbury Link Road in Version 5 of the draft DCO. PoTLL has provided a mark-up and clean version of this Requirement and an explanatory note at Appendices 2 and 5 of its Summary of Oral Submissions, submitted at Deadline 6.</p>

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					<p>It is agreed that PoTLL must approve plans for works on its land, including how this is to be handed back to PoTLL. The wording of this in the Protective Provisions and Framework Agreement is not yet agreed.</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 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.</p> <p>Deadline 6 update: PoTLL is satisfied that the river-related matters are nearly resolved, subject to the Port of London Authority being satisfied that it has sufficient oversight of the tunnelling works. PoTLL’s concerns in relation to tunnelling will be withdrawn once the PLA advises it is content with the protections provided to it in the DCO.</p>

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	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.	<p>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.</p> <p>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 and amendments back on these from the Applicant which it understands are being incorporated into the Deadline 3 draft DCO and PoTLL will be considering these alongside the development of the Framework Agreement and in preparation for the Hearings.</p> <p>Deadline 6 update: The revised Protective Provisions include protection from the operation of article 18 within Port land without PoTLL's consent to the Applicant's plans, resolving this matter.</p>
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.	<p>In the first instance, LTC to provide a Technical Note to PoTLL to confirm its position.</p> <p>Following review of this, further surveys may be necessary.</p>	Low	No	<p>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.</p> <p>A summary of the remaining concerns is set out in PoTLL's written representation.</p> <p>Deadline 3 update: PoTLL await the outcome of the Applicant's review of the invertebrate survey data.</p> <p>Deadline 6 update: Whilst PoTLL maintains its position that the baseline information is inadequate,</p>

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					<p>the Applicant has agreed not to place environmental mitigation or compensation on PoTLL's land without PoTLL's agreement.</p> <p>The Applicant has agreed to a working group, dedicated to ecology, to manage the ecological considerations for PoTLL's land during the construction of the LTC Scheme, and in relation to ongoing interaction once the Scheme is operational.</p>
	<p>Mitigation – more detail is required on the mitigation measures proposed to be implemented to understand if they will work.</p>	<p>In the first instance, LTC to provide a Technical Note to PoTLL to confirm its position.</p> <p>Following review of this, a more detailed LEMP may need to be prepared.</p>	<p>Medium</p>	<p>Yes</p>	<p>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 secured and implemented ecological mitigation areas.</p> <p>A summary of the remaining concerns is set out in PoTLL's written representation.</p> <p>Deadline 3 update: The position remains as at Deadline 1.</p> <p>Deadline 6 update:</p> <p>It is understood that the Applicant has agreed that no ecological mitigation or compensation measures will be put onto PoTLL/Freeport land, save for the small amount of Work No. E14.</p> <p>The Applicant is reviewing the proposals for the conveyor to identify how this can be implemented without causing environmental harm to the ecological mitigation areas.</p> <p>The Applicant has agreed to a working group, dedicated to ecology, to manage the ecological considerations for PoTLL's land.</p> <p>Whilst PoTLL remains unclear as to the mitigation measures, a process has been agreed to manage this appropriately during detailed design and construction.</p>