

# PROPOSED TILBURY2 DEVELOPMENT CONSENT ORDER

## PRELIMINARY MEETING – 20 FEBRUARY 2018

### SUMMARY OF PORT OF TILBURY LONDON LIMITED'S SUBMISSIONS

#### DOCUMENT REFERENCE: POTLL/T2/EX/34

#### 1. INTRODUCTION

- 1.1 This note summarises the points made by Port of Tilbury London Limited ('PoTLL') at the Preliminary Meeting held on 20 February 2018.
- 1.2 Due to the nature of the Preliminary Meeting, the points raised here deal with only the substantive points that were made on certain aspects of the agenda for the Preliminary Meeting, that are not already dealt with in detail in PoTLL's response to the Examining Authority's Rule 6 letter (Document Reference PoTLL/T2/EX/31), rather than noting comments against each agenda item.

#### 2. PRINCIPAL ISSUES

- 2.1 Mr Owen, on behalf of PoTLL, made the following points in respect of the Principal Issues provisionally identified in the Examining Authority's Rule 6 Letter Annex B:
- 2.2 In respect of the identified issue of Air Quality, and the Examining Authority's query as to "*Whether the assessments sufficiently consider all long term effects upon air quality including those from ships, dredgers and tugs manoeuvring in the river as well as when they are stationary at the port, unloading or loading*" Mr. Owen highlighted that:
  - 2.2.1 The Environmental Statement reported that Thurrock Council had agreed that shipping emissions could be screened out (ES Table 18.5, page 18-14 (Document Reference APP-031, 6.1).
  - 2.2.2 The Scoping Opinion for Tilbury 2, at paragraph 3.36, agreed that on the basis of PoTLL's Scoping Report, no further assessment in this regard would be necessary; however it welcomed that the matter would be kept under review.
  - 2.2.3 This further review was undertaken in the ES at paragraphs 18.147-18.158, which considers the effects of shipping emissions at paras 18.325-18.331. Paragraph 18.331 states: *In light of: the distance between emissions from shipping and sensitive areas of exposure in Tilbury and Gravesend, the prevailing wind direction, the total number of shipping movements below the DEFRA threshold, the absence of short-term exceedances of either nitrogen dioxide or sulphur dioxide concentrations recorded at relevant sites in Thurrock, the controls in place on fuel sulphur content; **the potential impact on local air quality from vessels either in transit or at berth, is considered not to be significant.*** This led to the conclusions that consideration of shipping emissions could continue to be scoped out.
  - 2.2.4 As such, PoTLL considered that any such examination of this topic should take account of these matters.
- 2.3 In respect of the Examining Authority's identified provisional view of 'Policy and Objectives' as a Principal Issue, in respect of the RoRo and the CMAT, Mr. Owen highlighted the role of the National Policy Statement for Ports in relation to such matters, particularly paragraphs 3.4.11, 3.4.12 and 3.4.15, which state that "*capacity needs to be provided at a wide range of facilities and locations, to provide the flexibility to match the changing demands of the market, possibly with traffic moving from*

*existing ports to new facilities generating surplus capacity". Government considers that the market is the best mechanism for getting this right, with developers bringing forward applications for port developments **where they consider them to be commercially viable...**that 'Port capacity is needed at a variety of locations and covering a range of cargo and handling facilities'.*

2.4 PoTLL requests that these considerations are taken into account by the Examining Authority in determining how to take forward the Examination.

### 3. EXAMINATION TIMETABLE

3.1 Extensive discussion was held at the Preliminary Meeting in respect of the Examination timetable, and it is understood that PoTLL's points on the timetable in its response to the Rule 6 letter (Document Reference PoTLL/T2/EX/31) are being considered by the Examining Authority.

3.2 However, PoTLL considers that it may be helpful to fully explain its position on the proposed June hearings, as set out by Mr. Owen at the Preliminary Meeting:

3.2.1 The Examining Authority suggested that notification of these hearings could be moved from 29 May to 24 May, to be placed with the newspapers that day. However, as explained at the meeting, as newspaper notices would not be published until 29 May (in Gravesend) and 31 May (in Thurrock), this would still not leave 21 clear days from the date of publication for both publications to the date of the first anticipated hearing on 21 June.

3.2.2 As such, it was suggested that to alleviate this concern, it may be advisable to move the June hearings to the week after the week currently timetabled, i.e. to take place on 26-28 June.

3.2.3 PoTLL considers that the timetable could then be adjusted to read as follows (also taking into account the points in its Rule 6 response letter):

Date reserved for an Issue Specific Hearing on outstanding Environmental, Planning Policy and Socio-economic issues	Tuesday 26 June 2018
Date reserved for Compulsory Acquisition Hearing (morning)	Wednesday 27 June
Date reserved for Final Open Floor Hearing (afternoon)	Wednesday 27 June
Date reserved for Issue Specific Hearing on the draft DCO	Thursday 28 June
<b>Deadline 5</b>  Deadline for receipt of: <ul style="list-style-type: none"> <li>• Applicant's revised draft DCO</li> <li>• Responses to any information requested by the Panel</li> <li>• Post hearing submissions including written submission of oral cases</li> <li>• Comments on responses to the Panel's SWQs (if required)</li> </ul>	Friday 6 July

Publication by the Panel of:  Report on the Implications for European Sites (RIES) (if required)	Friday 13 July 2018
Publication by the Panel of:  The Panel's draft DCO, or the Panel's schedule of proposed changes to the Applicant's most recently submitted version of the dDCO (if required)	Friday 13 July 2018
<b>Deadline 6</b>  <ul style="list-style-type: none"> <li>• Comments on responses on further information requested by the Panel at the June Hearings</li> <li>• Comments on responses on post hearing submissions including written submissions of oral case</li> </ul>	Thursday 19 July
Deadline 7 to end of Examination: as per Rule 6 letter.	

3.3 If this is not acceptable to the Examining Authority, PoTLL notes the Examining Authority's ability to utilise its discretion to reduce the 21 day notice period under Rule 13(6) of the Examination Procedure Rules.

3.4 In respect of the proposed Accompanied Site Inspection, it was suggested at the Preliminary Meeting that a day should be set aside for each side of the river, to which PoTLL is agreeable. PoTLL is aware that Gravesham Borough Council is proposing to suggest that an Open Floor Hearing is held on the same day as the Gravesham visit, and can confirm that it would support such a suggestion.

3.5 Finally in respect of the Examination timetable, as a result of PoTLL's submission of its Response to Relevant Representations (Document Reference PoTLL/T2/EX/32) document, Mr Owen suggested that Deadline 1 of the Examination timetable could be amended to delete the reference 'Response to Relevant Representations' and that Interested Parties could instead be encouraged to respond to other relevant representations, and to PoTLL's response to them, as part of their Written Representations that are to be submitted at Deadline 1.

3.6 This was suggested with the aim of ensuring efficiency of submissions and avoiding repetition.

#### 4. **STATEMENTS OF COMMON GROUND**

4.1 Mr Owen, on behalf of PoTLL, explained the latest position on Statements of Common Ground, as is set out in the SoCGs Update Report submitted by PoTLL on 14 February.

4.2 In addition to this, he agreed with the suggestion of the MMO that the final Examination timetable should provide for the submission of updates as to the progress of Statements of Common Ground at each deadline.

4.3 It was noted at the Preliminary Meeting that Annex E of the Examining Authority's Rule 6 Letter had suggested that a Statement of Common Ground should be entered into between PoTLL and RWE, in respect of their Tilbury Energy Centre proposals.

4.4 Mr Owen explained that PoTLL is in extensive discussions with RWE with the aim of entering into a legal agreement. As such it is likely that a mutually agreed Position Statement between the parties will be submitted to the Examination rather than a formal Statement of Common Ground.

## 5. CUMULATIVE EFFECTS

5.1 Mr Owen, on behalf of PoTLL, referred to PoTLL's position in respect of the agenda suggestion that PoTLL should submit updated chapters of the ES and associated appendices and plans, to take account of potential cumulative and in-combination effects arising from the Lower Thames Crossing and Tilbury Energy Centre.

5.2 That position is set out in PoTLL's Response to Relevant Representations document (PoTLL/T2/EX/32); which in summary is that, in relation to both projects, given:

- the lack of any meaningful design proposals;
- the lack of traffic data (particularly in the case of LTC);
- the lack of temporal interaction between those projects and Tilbury2; and
- that Thurrock, Gravesham and Highways England have all agreed that cumulative assessment of LTC is not possible,

it would not be appropriate or possible for updated environmental statement chapters to be submitted in relation to cumulative effects of these projects.

5.3 Mr. Owen noted that RWE were about to commence a non-statutory consultation in relation to Tilbury Energy Centre, running from 26th February to 26th March 2018. In relation to this consultation, RWE has published a consultation leaflet and a consultation booklet, which can be found at <http://www.rwe.com/web/cms/en/3877338/rwe-generation-se/fuels/location-overview/uk/tilbury-energy-centre/public-consultation/>.

5.4 Mr Owen said, however, that this development did not change PoTLL's position on this issue. This is for the following reasons (which are elaborated upon further to the preliminary meeting):

5.4.1 There is insufficient certainty and information to undertake a Cumulative Effects Assessment (CEA) of Tilbury2 with TEC.

5.4.2 The consultation is non-statutory only and therefore there is no certainty that the early visualisations of the scheme found in the consultation booklet will be representative of the proposals that will eventually be the subject of statutory consultation and EIA. Indeed, the visuals provided are entitled "What Tilbury Energy Centre could look like", and do not include, for example, any representations of mitigation measures.

5.4.3 There is no Scoping Report published at this stage and only a high level indication of the topics that will be covered in the Environmental Impact Assessment. TEC therefore remains a 'Tier 3' development as defined in PINS Advice Note 17 and a Level 5 project in relation to the NE/JNCC hierarchy. Nothing that RWE has published changes this position.

5.4.4 The information does, however, indicate that the temporal separation between the TEC and Tilbury2 is now even further apart than originally considered, with a DCO decision expected in Q2 2020. This would mean construction would then start at the earliest in Q3 2020, when, as set out

in paragraph 5.127 of the ES (Document Reference AS-006, PoTLL/T2/EX/10), the Tilbury2 RoRo is expected to be open and the CMAT would follow soon after.

5.4.5 In any event, as has been set out in PoTLL's Response to Relevant Representations (Document Reference PoTLL/T2/EX/32), whilst a Scoping Report exists for LTC, this provided insufficient information to undertake a CEA. As such, even if a Scoping Report were to be published for TEC, it is likely to remain difficult if not impossible to undertake a CEA with any veracity unless this Scoping Report contains sufficient information to do so.

5.4.6 Moreover, the proposals include no indication of any mitigation that might be developed as the design of the scheme progresses and consultation takes place (for example landscape treatment, materials and finish of the proposals). Therefore any CEA of issues such as the impact on landscape or heritage assets could not be undertaken without making unsubstantiated assumptions on the extent to which impacts could be mitigated.

5.5 In light of all of these points, and as Mr. Owen concluded, it will be for the TEC to consider the impacts of its proposals in light of Tilbury2.

5.6 Finally, it was noted that RWE's non-statutory consultation materials set out a red line which includes part of the Tilbury2 site. This is because the TEC scheme cannot yet assume the existence of Tilbury2 unless and until Tilbury2 gains consent. However, it is anticipated that PoTLL and RWE will be able to enter into a legal agreement to regulate the interaction of the two projects.

**22 February 2018**