

Thurrock Council

Written Summary of Oral Representations Provided at the Issue Specific Hearing on the Draft Development Consent
Order 21st February 2018

March 2018

Proposed Tilbury2 Port Expansion

Planning Inspectorate Reference: TR030003

Q No.	Part of DCO	Question	Written Summary of Oral Representation
20	Art 11 [Classification of roads]	The EM [APP-017] indicates that this article is under discussion with the Highway Authority. Can the Applicant and the Highway Authority state whether the principles are now agreed?	Thurrock Council has not agreed to the classification of roads although initial discussions including with Highways England indicated that it was likely that the adoption of the new road would fall under the jurisdiction of Thurrock Council
21	Art 12 [Permanent stopping-up and restriction of use of highways and private means of access]	<p>a) This article refers to the stopping-up of <u>highways</u>, yet Article 12(2)(a) refers to new highways or private means of access being completed to the reasonable satisfaction of the <u>street</u> authority rather than the highway authority. Why is this? There are similar references to the street authority elsewhere in the article.</p> <p>b) Please explain why Part 1 of Schedule 4 includes “<i>New highways which are otherwise to be provided</i>” – i.e. where there is no corresponding stopping-up - which do not appear to be referred to in Article 12 or elsewhere. This is not explained or referred to in the EM.</p>	Thurrock Council, being a Unitary Authority, is the Highway Authority and Street Authority

39	<p>Art 41 [Operation and maintenance of the authorised development]</p>	<p>This article provides extraordinarily wide powers to carry out works and development in addition to the authorised development described in Schedule 1, which already itself includes a substantial number of items of ‘ancillary or related development’. There is also some duplication e.g. item (y) in Schedule 1 includes a number of items referred to in this article. Article 46 also enables the land to be treated as operational land, with consequent ability to exercise PD rights which will no doubt include much of what is sought by this article.</p> <p>a) Can the Applicant explain why these three avenues to achieving what appears to be the same objective are necessary and justified?</p> <p>b) Is the cross reference to Art 3(2) in Art 41(1) correct?</p> <p>c) Please can the Applicant provide confirmation that all of the activities that would be authorised have been assessed within the ES?</p>	<p>In responding to points made by the Applicant the Council (in its role of the local planning authority) referred to existing arrangements with the Applicant. The Council confirmed that it is usual procedure for the planning agent (acting on behalf of the Applicant) to submit an application for a Certificate of Lawfulness for Proposed Development to the local planning authority, in order for the authority to confirm whether or not proposed development at the existing Port of Tilbury comprised permitted development pursuant to Part 8, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015. The Council can confirm that it received two separate applications for a Certificate of Lawfulness from the Applicant during 2017.</p>
47	Art 51	Is it sufficient for the Company to be the	The Council indicated that when it

	<i>(8) Before exercising the powers conferred by paragraphs (1) or (3) the Company must consult such persons as the Company considers necessary and appropriate and have regard to the representations made to the Company by any such person.</i>	sole arbiter of who should be consulted, and not additionally for example such persons as the traffic authority or the chief officer of police may require?	consults it includes a wide range of groups such as the FTA. The Council also consults with Council Members and other parties and would recommend the Applicant to do the same.
63	R3 [External appearance and height of the authorised development]	Subsequent detailed approval is only required under this article in respect of: <ul style="list-style-type: none"> • Silo facilities constructed as part of Work 8A(i) – construction of silo facilities and associated piping and pumping infrastructure and road tanker loading facilities; • Processing facilities constructed as part of Work 8C(iii) – construction of a railway line, rail sidings and associated rail infrastructure; and • Fencing as part of Works 9 - new highway – and 12 – rail line 	The Council stated an intention to present a draft Local Impact Report to the meeting of the Council’s Planning Committee on 15 th March 2018 for approval and submission at Deadline 1. The Local Impact Report will comment on the drafting of Schedule 2, Parts 1 and 2 of the draft DCO.

		<p>a) Why are other elements of the authorised development not subject to detailed approval?</p> <p>b) Is the reference to Work 8C(iii) correct, as the description does not include processing facilities?</p> <p>c) The table in R3 should include the maximum dimensions of the marine elements of the Proposed Development, as well as the flood gate, the radial conveyor and Fort Road Bridge. It should also define the maximum dimensions of the CMAT processing facilities and the warehouse.</p>	
71	R13 [Interpretation]	<p>Does Thurrock Council have a view as to the inclusion of its functions under s60 and 61 of the Control of Pollution Act 1974 in this procedure instead of the mechanism in that Act? The Applicant cites precedent of the Thames Tideway Tunnel, but there was an urgency for that development which is not present here.</p>	<p>The Council representative referred to a written answer prepared by the Council's Environmental Health Officer. This written answer was forwarded to PINS on 23.02.18 and is reproduced below:</p> <p><i>'Ultimately we are seeking to protect the amenity of the local residents affected by construction noise.'</i></p>

			<p><i>Provided the same (or better) protection can be afforded by effectively writing the construction noise control into another legally binding document, such as the CEMP in the DCO, then I would not object if it was decided to go this route. The applicant would obviously need to re-write section 10 of the CEMP in this case. As you are probably aware, a Section 61 Notice is a negotiated prior consent that construction companies may apply for, and is not mandatory unless required e.g. by planning condition etc. Where there is no Section 61 in place, and construction noise becomes an issue, the Local Authority can impose a section 60 notice on the construction company. Unlike a Section 61 it is not a negotiated agreement. In my view the Section 61 procedure would be the preferred option for reasons of transparency, control and flexibility'.</i></p>
75	Schedule 3	Are the Local Highway Authority (LHA)	The Council Indicated that, as per

	Classification of Roads etc	and Local Street Authority (LSA) content with Schedule 3, as drafted?	question 20 above, the classifications of the roads has not yet been agreed.
76	Schedule 4 Permanent Stopping up of Highways and Private Means of Access and Provision of New Highways and Private Means of Access	Are the LHA and LSA content with Schedule 4, as drafted?	The Council has not yet agreed Schedule 4 as there are still some questions over the diversion of the footpath. The Council has suggested that instead of a Toucan crossing a signalised junction including pedestrian and cycle facilities could be located at the junction of Fort Road and the new port road.
88	Schedule 8 Traffic Regulation Measures etc	Is Thurrock Council content with Schedule 8, as drafted?	The Council has not yet agreed Schedule 8 as more detail is required. It is not clear how the proposed restrictions link into the existing restrictions and how the speed limits will be set. Details of street lighting have not been provided so it is not possible to set out which limits will be by Order and those by designate of street lighting. The Council also do not favour clearway restrictions as it is unable to enforce them.
90	Schedule 10 Protective Provisions	Could the Applicant and other parties to the Protective Provisions state their	Part 5: The Council has so far only discussed the technical delivery of the

		current positions?	<p>drainage scheme rather than any procedural matter in relation to the submission of plans and notification of works.</p> <p>Part 7: The Council reserved comment in order to consider in more detail and provide a written statement.</p>
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