

From: [Johnson, Melissa](#)
To: [Tilbury2](#)
Cc: [Elsenaar, Marnix](#); [Hodge, Sarah](#)
Subject: TR030003 - Tilbury2 DCO Application - Deadline 3 Submission by Network Rail [ADDGDD-Live.FID2647768]
Date: 30 April 2018 10:08:41

Dear Sir or Madam

We act for Network Rail (NR) in relation to this matter.

In response to the information requested at Deadline 3:

Comments to any information submitted by the Applicant at Deadline 2

Comments on 'Response to Written Representations, Local Impact reports and Interested Parties' Responses to First Written Questions' (pages 52 -54) (**Response to Written Representations**):

In summary, NR and the Applicant are still considering the outstanding points within the draft Protective Provisions, which were identified and appended to NR's Written Representations (**Examination Library Ref REP1-075**). It is hoped that these points will be resolved shortly.

Regarding each of the outstanding points in relation to the Protective Provisions to which the Applicant refers in its 'Response to Written Representations':

1. *Article 41 (operation and maintenance)* of the draft DCO: The Applicant does not accept that NR should be required to consent to the operation and maintenance of the development. NR responds that, whilst the need for such consent being necessary is unlikely on a regular basis, NR will need to consent in the event that this power affects NR property. The Protective Provisions must reflect this position.
2. *Article 42 (appropriation)*: The Applicant does not believe that Network Rail's consent for the Applicant's power to appropriate is justified. NR responds that, as NR's land has been included within the area to which the power of appropriation relates (the extended port limits), NR will need to consent in the event of appropriation by the Applicant, if NR's property is affected. The Protective Provisions must reflect this position.
3. The Applicant does not accept that it should be liable for indirect or consequential loss or loss of profits. NR responds that, NR should not be liable for such costs and cannot accept the addition of the Applicant's proposed wording to its standard Protective Provisions. This wording was not included in the recent A14 DCO Protective Provisions.

We await confirmation from the Applicant on the wording at Paragraph 65(1) of the Protective Provisions, which incorporates a new definition of "Completion". The other amendments requested by the Applicant in this Paragraph 65 have been accepted by NR.

The Response to Written Representations by the Applicant sets out in a table the plots in which NR have an interest and why the Applicant requires right over and/or the acquisition of such plots. It has been confirmed in the draft Statement of Common Ground (SOCG012) (**Appendix 7 of Examination Library Ref REP1-021**), that both parties have agreed that compulsory powers will not be exercised in relation to NR's land. We therefore do not respond on the points raised by the Applicant in relation to each plot.

Responses to any revised DCO submitted by the Applicant

As referred to above, the Protective Provisions are still being considered with the Applicant.

Any revised or updated Statement of Common Ground between Network Rail and the Applicant (the SoCG)

No further draft of the SoCG has been produced by NR and the Applicant.

Other matters

In addition to the issues set in NR's Written Representations (**Examination Library Ref REP1-075**) the NR technical team have raised a further concern relating to its culvert assets within 300-400 yards of the proposed DCO works. NR need further information on the impacts of the proposed DCO works (before, during, after) on these structures. Any load changes that impact these assets will need to be assured (analysis undertaken) and NR will need to verify to their satisfaction that the proposal is acceptable and the long term management of these assets by NR cannot be impeded by the DCO works. Access to examine and maintain the structures will be required throughout the life span of the asset(s).

A meeting with the Applicant is currently being arranged to try and resolve this concern and move negotiations on with regards the Protective Provisions and overriding/framework agreement. However, until such time as an agreement is reached, NR's objection to the DCO remains and this new concern further highlights the reason why NR requires its version of the Protective Provisions to be included in the DCO and an agreement with the Applicant, in order to ensure the safety of the railway.

Yours faithfully

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