



**Application by Port of Tilbury London Limited for an Order  
Granting Development Consent for a Proposed Port  
Terminal at the Former Tilbury Power Station ('Tilbury2')  
Planning Inspectorate Ref: TR030003**

**Historic Buildings and Monuments Commission for  
England (Historic England) Deadline 3 Submission 30 April  
2018**

## **1. Historic England's Comments on PoTLL Responses to Written Representations, Local Impact Reports and Interested Parties Response to First Written Questions Submitted at Deadline 2**

### **1.1 p.45 Thurrock Council (LIR8.1-8.4); and p105 Historic England (WR Appendix 2 response to FWQ 1.13.4.paras 1.3-1.6):**

1.1.1 Historic England welcome the applicant's agreement to amend the draft Development Consent Order (dDCO) to additionally include the warehouse in Work No. 7 (b) and buildings constructed as part of Work No. 3 (d) and Work No 5 (c) amongst those structures for which details of the external materials are to be submitted to and approved by the relevant planning authority, after consultation with Historic England.

1.1.2 Historic England support Thurrock Borough Council's proposal to include the term 'external appearance' and 'design' so that the relevant planning authority and consultees may give consideration to the general form of the building envelope, as well as the specification for external finishes and materials. This would further the aims and objectives of the NPS which states that good design is fundamental to mitigating the adverse effects of development as well as a means of delivering positive aesthetic qualities (2.3.2), and that proposals should produce sustainable development sensitive to place...matched by an appearance that demonstrates good aesthetic as far as possible (4.10).

1.1.3 Although the NPS recognises the nature of port infrastructure will limit the extent to which it can contribute to enhancement and that there may be no or limited choice in the physical appearance of some port infrastructure, the applicant's view that:

*... the LVIA for the proposals has already assessed a worst case of a solid block across the site and so the detailed design will be an improvement on this...* is a use of the Rochdale Envelope which does not reflect the Policy's exhortation to use good design wherever possible as a means of mitigation.

1.1.4 The applicant proposes to consult on a General Specification for Materials and Finishes within the development order limits, (see also in 1.13 p100 - Potential Heritage Enhancements) to be secured through Schedule 2 of the DCO.

Whilst the development of a palette of materials and finishes would be valuable, Historic England considers that our engagement with this element of mitigation should form part of the post-DCO design process, in consultation with Thurrock Borough Council.

## **1. 2 p.81-2 Historic England (WR Appendix 2, FWQ 1.1.34) Terrestrial Written**

**Scheme of Investigation:** Historic England note the applicant's comments regarding the Terrestrial Written Scheme of Investigation through the DCO. We made an oral submission on this matter at the Issue Specific Hearing and our expanded written statement on this is set out in 2.1 below.

**1.3 p.104/5 Historic England (WR section 4; 5.8) Assessment of Harm:** The applicant does not consider the proposals to result in ‘almost encircling the fort’ and that ‘much of the experience of the fort will remain unchanged’. Our assessment describes and accepts that the landscape setting of the fort includes some industrial elements. The difference is that the applicant considers that the impact is lessened because of this, whereas Historic England considers that cumulatively, the impacts would be all the more increased, mindful of the advice that ‘where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting...consideration still needs to be given as to whether additional change will further detract from or can enhance the significance of the asset. Negative change could include severing the last link between an asset and its original setting (The Historic Environment Good Practice Guide in Planning 3 Setting of Historic Assets p.4, Section 9). We have noted the attrition to the fort’s landscape setting from port related development to the west, and consider that the impacts of the proposed development are such as would effectively sever the legibility of the Fort’s strategic landscape setting. Cumulatively the effect on setting overall would be radical. Historic England made oral representations at the Issue Specific hearing and our expanded written submission of this is set out below at 2.3.

**1.4 p.104 Historic England (WR Section 5) Future Baseline:** We note the applicant’s comments, but still have concerns that there is an inconsistency in the future baseline due to the power station not having been removed from all stages of the assessment which gives it more prominence than would otherwise have been the case.

## 2. Expanded Written Version of Historic England's Comments at the Issue Specific Hearing

### 2.1 Draft DCO: Terrestrial Archaeology

2.1.1 **Historic England's Position:** In the event that Historic England can agree the final wording of the WSI for the mitigation strategy for terrestrial archaeology (which is still a matter under discussion) we advise that the following requirements should be included within the DCO to secure the archaeological mitigation.

#### *Terrestrial Archaeology*

- 1. No archaeological investigations shall be carried out until a method statement, which shall accord with the approved Archaeological Scheme of Investigation (WSI), is submitted to and approved by the relevant planning authority in consultation with the HBMCE.*
- 2. The authorised investigations shall be carried out in accordance with the approved details by a suitably qualified person or persons.*
- 3. No ground works which are subject to a requirement for archaeological investigations can commence until the archaeological mitigation measures have been implemented in accordance with the approved method statement.*

2.1.2 In the event that the Written Scheme of investigation cannot be agreed, an additional requirement would be:

*4. The Written Scheme of Investigation will be submitted for approval by the relevant planning authority and HBMCE.*

**2.1.3 Comment on the Applicant's Position:** The applicant stated that the WSI would be a certified document and that the wording in the DCO is limited a single sentence stating:

*...that the authorised development must be carried out in accordance with the terrestrial written scheme of investigation...*

Mr Owen stated in the applicant's summary of submissions for the Issue Specific Hearing (69. R10) that *...there would be no post-DCO decision finalisation of the WSIs...* and that therefore Historic England would need to be satisfied with the WSIs....

2.1.4 Historic England believe that the requirements in the DCO are justified for the following reasons:

(i) Requirement 1 relates to the approval by the relevant planning authority and Historic England of the individual method statements which will be drafted **post** DCO decision. It is necessary that this should be highlighted in the DCO for clarity of process.

(ii) Requirement 2 is necessary given that the archaeological contractors are not specified in the WSI, and may change over the course of the project.

(iii) Requirement 3 is necessary given that there is no statement to this effect in the WSI. The requirement via the DCO would make explicit that no ground works may commence before the implementation of any archaeological mitigation to which they are subject. To include this in the DCO highlights the necessity of all parties complying with this requirement, without which there is a risk that ground works might start without the implementation of the mitigation strategy.

(iv) Requirement 4 is necessary in the event that the Written Scheme of Investigation is not agreed.

**2.2 Historic Environment 13.1 Impacts of Proposals and Mitigation – General**  
**vi. Would the Applicant, Hist E and Marine Management Organisation (MMO)**  
**give an update on the Marine WSI and Deemed Marine Licence?**

2.2.1 Further to the evidence we gave at the Issue Specific Hearing on 18th April 2018, we write to confirm that the Applicant's consultant (CgMs Heritage) supplied a revised draft marine archaeological Written Scheme of Investigation v2 (Ref: POTLL/T2/EX/60) to us on 24th April 2018. We have reviewed this document and we provided comment in response to Ms S. Gailey (our letter dated 27th April). In summary, we do not consider the revised draft marine archaeological Written Scheme of Investigation (WSI) to be sufficient to deliver the necessary mitigation measures required for this proposed project.

2.2.2 The revised draft marine WSI supplied to us (as referenced above) is based on guidance published by The Crown Estate entitled Model Clauses for Archaeological Written Schemes of Investigation – offshore renewables projects (prepared by Wessex Archaeology), dated December 2010. While we are prepared to accept that there might be considered standard elements for inclusion within a WSI such as particular survey methodologies e.g. use of different geophysical techniques, we consider it inappropriate that the use of investigative techniques were not tailored to this proposed project. We must add that there is published guidance entitled The Assessment and Management of Marine Archaeology in Port and Harbour Development (2016), published by Historic England, which would have enabled the preparation of a draft or outline marine WSI to reflect the practicalities associated with a port development project (inclusive of any capital dredge programme). We also add that in every Nationally Significant Infrastructure Project to date, the applicant has prepared, in advance of examination, a draft or outline marine WSI that reflects the design envelope approach for how the project might be delivered and that the draft deemed Marine Licence includes specific provision for the production of a WSI, post-consent, to be prepared in consultation with Historic England and agreed with the MMO.

2.2.3 We therefore do not accept the statement made in the revised draft marine WSI (as referenced above) that the draft deemed Marine Licence does not need to include specific provision for the production post-consent (should permission be obtained) for a marine WSI. We therefore confirm that the text of the draft deemed Marine Licence within Revision 1 of the draft Development Consent Order (Ref:

POTLL/T2/EX/36) should be revised and include adequate provision to allow for the production, post-consent of a marine WSI. Please note that we have previously offered draft text for these conditions in our Written Representation.

2.2.4. Pre-construction plans and documentation: A written scheme of archaeological investigation in relation to the Order limits seaward of mean low water, which must be submitted at least six months prior to commencement of the licensed activities and should accord with the draft written scheme of investigation and industry good practice, in consultation with Historic England and the relevant planning authority to include—

- (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
- (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
- (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within three months of any survey being completed;
- (iv) any archaeological reports produced in accordance with these conditions are to be agreed with the Historic England and the relevant planning authority.
- (v) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;

(vi) monitoring of archaeological exclusion zones during and post construction;

(vii) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment, by submitting a Historic England OASIS (Online Access to the Index of archaeological investigations) form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO and the relevant planning authority that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;

(viii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction and operation of the authorised scheme;

(ix) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the Order Limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities. The Consent Holder shall not commence construction of a relevant work until the Consent Holder has appointed the Retained Archaeologist to ensure the delivery of the Scheme; and carried out the pre-construction archaeological work applicable to that relevant work. During construction of a relevant work, the Consent Holder will secure the implementation of the measures on its part set out in or from time to time agreed pursuant to the Scheme applicable to that relevant work (other than the pre-construction and the post-construction archaeological work).

(x) Following the completion of construction of a relevant work, the Consent Holder will secure the implementation of all the post-construction archaeological work applicable to that relevant work; and

(xi) Any work executed or undertaken by or on behalf of the Consent Holder in accordance with the Scheme approved or deemed to be approved by MMO shall not relieve the Consent Holder of any liability.

#### 2.2.5 Plans and documentation

(i) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific written scheme of investigation which has been submitted to and approved by the MMO.

(ii) Each programme, statement, plan, protocol or scheme required to be approved under Condition 2 must be submitted for approval at least four months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

**2.2.6 Dredging and Navigation ( 9.2) What consideration has been given to the impact of capital dredging proposals for the port on the foreshore of Tilbury Fort?**

2.2.7 We acknowledge the response offered by the consultant acting on behalf of the Applicant in response to this question. However, it is not apparent to us how the technical report entitled Hydrodynamic Sediment Modelling (ES Appendix 16.D, Ref: 6.2 16.D) has considered the effects that with some elements of the capital dredge programme conducted by Water Injection Dredging on the ebb tide might influence foreshore levels adjacent to Tilbury Fort. We therefore recommend that provision should be made to include a monitoring programme that establishes foreshore elevation levels at Tilbury Fort against which any changes can be measured before, during and after completion of the proposed capital dredge programme. An appropriate cross reference should also be included within the draft Construction Environmental Management Plan (Ref: Ref: POTLL/T2/EX/39).

2.2.8 For your information, we have appended our advice to CgMs Heritage that addresses matters as relevant to these two questions (our letter dated 27th April 2018).

## **2.3 Landscape and Visual- Historic England's Issues (15.3)**

**'areas in which Historic England has queries remaining**

**(re SoCG Applicant –Historic England Appendix 4 of SoCG Update Report [REP1-021]'**

**2.3.1 Comment:** While the Issue Specific Hearing listed these matters under the heading of Landscape and Visual, all references in the dSoCG show that all these matters pertain to assessments contained within ES Chapter 12 - Archaeology and Cultural Heritage (which considers the impact the proposed development would have on the significance of the designated Heritage Assets) rather than the Landscape and Visual Assessment in Chapter 9 (which considers landscape character and visual amenity). Our oral (and written) representation is therefore based on assessments in Chapter 12, not those in Chapter 9 which employ different criteria.

### **2.3.2 Expanded version of Oral Representation:**

2.3.3 Historic England have set out our position on the impacts which the scheme would have on the setting of Tilbury Fort and the level of harm which would be caused to its significance in our written representations, and the degree to which our assessment differs from the applicant's.

2.3.4 Neither Historic England nor the Applicant have concluded that in this case there would be substantial harm to the monument's significance. However, regardless of the degree of harm caused to significance, the NPS states that **any loss to significance should require clear and convincing justification**, that there

should be a presumption in favour of the conservation of designated heritage assets, and that when considering proposals which do not do this, the greater the negative impact on the significance of the asset, the greater the benefits that will be needed to justify approval.

2.3.5 The applicant assesses the magnitude of effects 'significance of effects' on Tilbury Fort as being medium adverse moderate-major adverse during construction and operation and the significance of effects as being moderate to major adverse. This magnitude of effects is assessed against proposals which incorporate elements of mitigation by design (embedded mitigation). The post-construction significance of effect is deemed to be moderate to major adverse with the residual effects after the application of mitigation measures assessed as moderate adverse.

2.3.6 Historic England consider that the applicant's assessment underplays the severity of harm which would be caused to the significance of the Fort and overplays the extent to which this harm can be effectively reduced by the mitigation measures put forward, when judged cumulatively against the Rochdale envelope and the future baseline.

2.3.7 The setting of Tilbury Fort is the surroundings in which it is experienced, and our written representations set out how we consider its current setting contributes to its significance. As a key coastal fortification from the Tudor period onwards, its national importance as an important element of a cross firing defensive chain on both sides of the Thames and its unique landward defences mean that views to and from the Fort are key to the way we understand and experience it.

2.3.8 When considered against the future baseline, we consider that while the upstream landward views to the west (which contribute to setting but are of less strategic importance) have been blocked by modern port development, the landward views to the north and east and river views down-stream and to Gravesend contribute more to its significance and are still legible and appreciable. The appreciation of the Fort's setting, as expressed through these views, would be severely curtailed by built form and site use generated by the proposed development, including the impacts from an additional berth closer to the fort where the size of ships and frequency of movements will block river views downstream to the Kent bank and Shornmead Fort. These impacts would be exacerbated by other environmental factors such as increased noise, vibration, traffic movements and lighting, which would further detract from the experience of the Fort's setting during the construction and operation of the development.

2.3.9 The Historic Environment Good Practice Advice in Planning 3 The Setting of Historic Assets clearly states that where the significance of a historic asset has been compromised by past unsympathetic development affecting its setting, to meet Framework policies (and here the NPS) consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset. Negative change could include severing the last link between an asset and its original setting.

2.3.10 Historic England's view is that while the setting of the Fort has been modified, judged against the future baseline, that which contributes most to its significance is legible, can currently be experienced, and should be given great weight when considering proposals which would be damaging, whereas the applicant's

assessment considers that the magnitude of the effects of the proposed development would be ameliorated because the fort would continue to be viewed in an industrial landscape.

2.3.11 The applicant assesses the residual significance of effect on the Fort as moderate- major adverse and the residual effect after mitigation as moderate adverse. Historic England does not agree with this assessment. The mitigation measures which would be implemented via the DCO are:

1. Consultation with the Thurrock Borough Council and Historic England on materials or colours for built structures, the lighting strategy. These measures may soften the visual impact of the development, but would not reduce the harm to significance arising from the impact on views to the extent that the magnitude of effect would be materially reduced.
2. The introduction of planting bunds for the infrastructure corridor: this would not reach maturity for over 25 years and cannot be considered to reduce the visual impact from the built form of the infrastructure corridor and the traffic on in views from the fort, to the degree that it would reduce the magnitude of effect for a very considerable number of years into the operational phase.
3. Retention of planting on the western boundary of the Tilbury 2 Site. This mitigation is described as being implemented 'as far as is operationally possible'. As it is neither specified nor controlled via the DCO, its effectiveness cannot be judged, as a means of visually soften the lower levels of the container storage area. It cannot be shown that it will effectively contribute towards reducing the residual magnitude of effect as the setting of the Fort is experienced in views to the east.

2.3.12 None of the above measures have the capacity to mitigate the fundamental impacts which the development would have on the significance of Tilbury Fort, to the extent that the adverse effect would be '*in the middle of the spectrum of less than substantial harm*' as stated by the applicant (Applicant's comments: PoTLL/T2/EX60, p.104). Historic England's assessment remains that the level of harm would be towards the upper end of the "less than substantial" range.

2.3.13 The NPS requires the decision maker to consider the following in their consideration of the harm to the significance of Tilbury Fort which would be caused by the proposed development:

- Any loss to the significance of a designated heritage asset should require clear and convincing justification.
- There should be a presumption in favour of the conservation of designated heritage assets.
- In considering applications which do not preserve those elements of the setting that make a contribution to, or better reveal the significance of the asset, the greater the negative impact on the significance of the asset, the greater the benefits that will be needed to justify approval (NPS 5.12.16).

2.3.14 The question for the decision maker should not be addressed as a simple balancing exercise, but whether there is justification for overriding the presumption in favour of conserving a designated heritage asset (NPS 5.12.13).

**2.4 Comment on the Applicant's Response to our Oral Submission:**

2.4.1 The applicant has cited the draft Conservation Plan by Alan Baxter Associates (submitted by English Heritage) as a document which accords with their own assessment of the setting of the Fort. The purpose and form of a Conservation Plan is not comparable with that of an Environmental Impact Assessment, nor have Historic England commented on this draft plan. The draft document can be given little weight as a comparable assessment for the harm to the significance of Tilbury Fort which would be caused by the proposed development.