

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') Ref: TR030003

The Examining Authority's second written questions and requests for information (FWQs) Issued on 8th May 2018

Thurrock Council (TC) response

Deadline 4 – 22nd May 2018

2.8 Draft Development Consent Order (dDCO) Matters			
SWQ	Question to:	Question:	TC response:
2.8.8	TC, Applicant	<p><i>Art 10: Construction and maintenance of new, altered or diverted streets.</i></p> <p>i. Art 10(4) - in its summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], the Applicant states the responsibilities for the streets and associated structures, including the fact that suitable protection for TC as local highway authority is found in the protective provisions. Is TC content with this position?</p>	<p>i. TC has provided suggested amendments to the Protective Provisions (Schedule 10 of the dDCO) to the Applicant. These comments are being reviewed and discussions between TC and the Applicant are continuing.</p>
2.8.9	Applicant, TC	<p><i>Art 11: Classification of roads.</i></p> <p>i. In its summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], the Applicant states that preliminary discussions have been held with TC, but no agreement has yet been reached. Would the Applicant and TC update the Examination on the status of their discussions?</p> <p>ii. Art 11(5) - insert "or other similar media" after Thurrock Gazette to safeguard against the future demise of this newspaper.</p>	<p>i. TC considers that the classification of roads is of particular importance with regard to the potential enforcement of traffic management measures. TC has provided suggested amendments to the Protective Provisions (Schedule 10 of the dDCO) to the Applicant. These comments are being reviewed and discussions between TC and the Applicant are continuing.</p>
2.8.21	TC, Highways England, Port of	<p><i>Art 32(2): Temporary use of land for carrying out the authorised development</i></p>	<p>i. This matter is still under discussion between TC and the Applicant. TC notes that a longer notice period is</p>

	London Authority	<p>- <i>Notice Period.</i></p> <p>In its summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], the Applicant states that a 14-day notice period is necessary because of the tight construction programme.</p> <p>i. Would TC, HE and PLA state their positions on this matter?</p>	required under the Traffic Management Act for road works of a major nature.
2.8.22	TC, Highways England, Port of London Authority	<p><i>Art 33: Temporary use of land for maintaining the authorised development.</i></p> <p>The Applicant states in the summary of the case made at the DCO hearing on 21 February 2018 [REP1-015] that a 28-day notice period is a “tried and tested” standard period.</p> <p>i. Would TC, HE and PLA state their positions on this matter?</p>	i. This matter is still under discussion between TC and the Applicant.
2.8.33	Applicant, TC, Highways England (HE)	<p><i>Art 52: Traffic regulation measures.</i></p> <p>i. Art 52 - in its summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], the Applicant signposts where in the dDCO traffic regulation consultation is provided, stating also that TC would normally expect other bodies to be notified in consultation, and that HE reserves its position. Art 52 has been amended in revision 2 of the dDCO</p>	i. TC has provided suggested comments and amendments to the content of Article 52 to the Applicant. These comments are being reviewed and discussions between TC and the Applicant are continuing. A technical meeting to discuss this matter will be held between TC Officers and the Applicant’s consultants on 24 th May 2018.

		<p>at deadline 3 [REP3-002]. Would the Applicant, TC and HE update the Examination on their positions with regard to Art 52?</p> <ul style="list-style-type: none"> ii. Art 52(1)(b) - line 2 - "other" rather than "others"? iii. Art 52(3) - within the Order limits only? iv. Art 52(4) – would the Applicant confirm that it is the power to make traffic regulations not the continuing operation of regulations which is subject to the time limit? 	
2.8.34	<p>Applicant, TC, Gravesham Borough Council, Environment Agency, Port of London Authority, Marine Management Organisation (MMO)</p>	<p><i>Art 57: Consents, agreements and approvals.</i></p> <p>The Applicant states, in the summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], that an amendment would be made to A57(4) for clarity. The Applicant also seeks a guillotine period of 28 days for responses for consents, etc,</p> <ul style="list-style-type: none"> i. Art 57(2) - do consenting bodies have any comments on the guillotine proposal – ie is 28 days sufficient for the local planning authority for example to carry out consultations? ii. Art 57(4) - should the last part of the revised text read "if it had been taken after this Order came into 	<ul style="list-style-type: none"> i. TC notes that the definition of "application" at Article 57 (6) refers to submissions which relate to Article 8 (street works), Article 10 (construction and maintenance of new, altered or diverted streets), Article 13 (temporary stopping up and restriction of use of streets), Article 14 (access to works), Article 18 (discharge of water), Article 20 (authority to survey and investigate land) and Article 52 (traffic regulation measures). Although the question refers to local planning authority consultations as an example, the Articles referred to are not considered to be planning related provisions. For information, consultation and publicity for submissions under the Town and Country Planning Act 1990 is referred to by the Town and Country Planning (Development Management Procedure) (England) Order 2015. Part 3 (15) of this Order requires a 'standard' 21 day period for consultation. In practical terms, if the consultation exercise for the submission of

		force”?	an application requires a press notice then the printing deadlines will need to be taken into account. 28 days may prove insufficient in this scenario.
2.8.37	Applicant, TC, Historic England (Hist E)	<p><i>Schedule 2: Part 1, Requirements - R3: External appearance and height of authorised development.</i></p> <p>In its summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], the Applicant states its position on why other elements of the authorised development are not subject to detailed approval. TC defers its position, and Hist E wishes to be involved in the approval process. R3 has been amended at deadline 3.</p> <p>i. Would the Applicant, TC and Hist E state their current positions on this matter?</p>	<p>i. TC’s Local Impact Report (LIR) was considered and approved by the Planning Committee at its meeting on 15th March 2018. The LIR was submitted at Deadline 1 (REP1-101). Paragraph 8.3 of the LIR refers to Schedule 2, Part 1 (3) of the dDCO and requests that consideration could be given to extending the requirement to submit details of external materials to include the proposed warehouse (Work No. 7 (b) and the buildings constructed as part of Work No. 3 (d) and Work No. 5 (c). TC notes that revision 2 of the dDCO (REP3-002) now includes reference to Work Nos. 3 (d), 5 (c) and 7 (b) at Schedule 2, Part 1 (3). These additions are welcomed.</p> <p>Paragraph 8.4 of TC’s LIR suggests that consideration could be given to the inclusion of the terms ‘external appearance’ or ‘design’ as well as ‘external materials’ at Schedule 2, Part 1 (3). TC notes the Applicant’s response (REP2-007) and accepts the functional nature of the buildings and structures to be constructed.</p> <p>Paragraph 8.5 of TC’s LIR suggests the addition of buildings to be constructed as part of Work No. 5 (c) to the table at Schedule 2, Part 1 (3) of the dDCO. TC welcomes the inclusion of this element within revision 2 of the dDCO.</p>

2.8.41	TC	<p><i>Schedule 2: Part 1, Requirements - R13: Interpretation (re procedure for discharge of requirements).</i></p> <p>In its summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], the Applicant states its rationale for employing s60 and s61 of the Control of Pollution Act 1974, and TC states that it will respond in writing via its Environmental Health Officer.</p> <p>i. Would TC state its current position on this matter?</p>	<p>i. TC considers that S61s are the appropriate mechanism for addressing construction noise issues. TC notes that the submitted Construction Environmental Management Plan (REP3-011) under the heading of ‘Working Hours’ states at paragraph 3.3 that: <i>“The Contractor will seek to obtain Section 61 consents from the Local Authority under the Control of Pollution Act 1974 for the proposed construction works. The applications will include details on proposed working hours”</i>. In addition under the heading of ‘Additional hours of working’ at paragraph 3.9 it is stated that: <i>“The nature and timing of these works and the associated extended working hours will be agreed with Thurrock Borough Council through the Section 61 process and notified to relevant stakeholders. The Contractor will be required to liaise and consult with Thurrock Borough Council prior to applying for Section 61 consent and will be required to maintain regular consultation with the Thurrock Borough Council throughout the duration of the construction works to help facilitate the Section 61 process with regards to additional working hours”</i>.</p> <p>Paragraph 10.1 of the CEMP referring to ‘Noise and Vibration’ states: <i>“As set out in Chapter 3, the Contractor must obtain a section 61 consent from Thurrock Council prior to commencing construction activities”</i>.</p> <p>TC is therefore satisfied that construction activities would be subject to s61. Finally, TC notes that the Construction Environmental Management Plan would be a certified document with reference to Schedule 11 of the draft DCO.</p>
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2.8.43	Applicant, TC	<p><i>Schedule 3: Classification of roads, etc.</i></p> <p>The Applicant states, in the summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], that discussions are ongoing with TC.</p> <ul style="list-style-type: none"> i. Would the Applicant and TC state the current position on the status of Schedule 3? ii. Why are the subheadings uppercase? 	<ul style="list-style-type: none"> i. TC has now provided comments to the Applicant regarding the content of Schedule 3 of the dDCO (Classification of Roads etc.). These comments are being reviewed and discussions between TC and the Applicant are continuing.
2.8.44	Applicant, TC, Highways England (HE)	<p><i>Schedule 4: Permanent stopping up of highways and private means of access & provision of new highways and private means of access.</i></p> <p>The Applicant states, in the summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], that it would be preferable to discuss this with TC as part of the wider discussions on the Active Transport Study, and that the schedule was also being discussed with HE.</p> <ul style="list-style-type: none"> i. Would the Applicant, TC and HE state the current position on the status of Schedule 4? ii. Private means of access – as comment relating to Art 12; iii. Line 1 - delete “In--- plans”. 	<ul style="list-style-type: none"> i. TC has now provided comments to the Applicant regarding the content of Schedule 4 of the dDCO (Permanent Stopping Up of Highways and Private Means of Access & Provision of New Highways and Private Means of Access). These comments are being reviewed and discussions between TC and the Applicant are continuing.
2.8.46	Applicant, TC, Highways England	<p><i>Schedule 8: Traffic Regulation Measures, etc.</i></p>	<ul style="list-style-type: none"> i. TC has now provided comments to the Applicant regarding the content of Schedule 8 of the dDCO

	(HE)	<p>The Applicant states, in the summary of the case made at the DCO hearing on 21 February 2018 [REP1- 015], that TC was not entirely content with Schedule 8 as drafted, and that HE stated that some traffic regulation measures would need to be changed in relation to the Asda roundabout.</p> <ul style="list-style-type: none"> i. Would the Applicant, TC and HE update the Examination on the status of their discussions on Schedule 8? ii. Delete “speed limit to be imposed” from each entry in column 2. 	<p>(Traffic Regulation Measures etc.). These comments are being reviewed and discussions between TC and the Applicant are continuing. As noted at 2.8.33 above a technical meeting to discuss this matter will be held between TC Officers and the Applicant’s consultants on 24th May 2018.</p>
2.8.48	<p>Applicant, Port of London Authority (PLA), Environment Agency (EA), TC, Network Rail (NR), Highways England (HE), RWE Engineering (RWE), Anglian Water (AW), Cadent</p>	<p><i>Schedule 10: Protective provisions.</i> The Applicant summarises, in the summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], the position with regard to the protective provisions with PLA, EA, TC (drainage interests), NR, HE & TC (highway interests), RWE, AW and Cadent. Revision 2 of the dDCO at deadline 3 [REP3-002] contains amendments to Schedule 10 Parts 3 (PLA) and 7 (TC & HE).</p> <ul style="list-style-type: none"> i. Would the Applicant and other parties state their positions regarding the protective provisions? 	<ul style="list-style-type: none"> i. TC has now provided comments and suggestions to the Applicant regarding the content of Schedule 10, Part 5 of the dDCO (For the Protection of Thurrock Council as Drainage Board). These comments are being reviewed and discussions between TC and the Applicant are continuing. <p>TC has also now provided comment and suggested amendments to the Applicant regarding the content of Schedule 2, Part 7 (For the Protection of Thurrock Council and Highways England). These comments and amendments are being reviewed and discussions between TC and the Applicant are continuing.</p>

		<p>ii. The Applicant is requested to provide a revised version of the dDCO to include all the protective provisions in Schedule 10 a week before the hearings scheduled for the end of June 2018;</p> <p>iii. With regard to Part 1 of Schedule 10, several of the protective provisions contain a provision similar to paragraph 5 which has the effect of neutralising the compulsory acquisition and temporary possession powers. What is the justification for such a provision in the light of the powers included in Part 3 Powers of acquisition and possession of land of the Order?</p>	
2.13	Historic Environment		
2.13.1	Applicant, TC	<p><i>Status of Discussions.</i> In the SoCG between the Applicant and TC at deadline 3 [REP3-028], the SoCG identifies various matters that are under discussion: approval of external materials, maximum heights of buildings and other structures, the approval of the written scheme of the proposed operational lighting, the proposed landscape mitigation along the infrastructure corridor, and cumulative effects assessment</p>	<p>i. Discussions between TC and the Applicant are ongoing. The current status of the matters under discussion is provided below: <u>External Finishes</u> – the Applicant has recently produced and submitted a schedule of finishes using colours found within the surrounding landscape. This approach is considered acceptable in principle. Nevertheless, further discussion and details are required concerning how the colours will be utilised to ensure the most appropriate finish for each building. However, it is likely that a palette of colours and a method for utilisation can be agreed as a mitigation</p>

		<p>i. Would the Applicant and TC update the Examination on the status of their discussions?</p>	<p>measure.</p> <p><u>Maximum Heights</u> – further discussions regarding the heights of buildings and structures, particularly stacked containers will take place between TC and the Applicant.</p> <p><u>Operational Lighting</u> – TC’s answer (ref. 1.15.5) to First Written Questions notes, inter-alia, that the proposed artificial lighting on the Main Site would to a degree replace lighting on areas of the former power station which were historically illuminated. TC also notes the mitigation measures promoted in the Environmental Statement and requirement 12 of the dDCO. TC accepts that the proposed mitigation measures for operational lighting are appropriate.</p> <p><u>Landscape Mitigation</u> – TC confirms that the proposed landscape measures located along the infrastructure corridor provide appropriate mitigation for the landscape and heritage impacts of the corridor on the setting of Tilbury Fort.</p> <p><u>Cumulative Effects Assessment</u> – TC notes that para.4.73 of the Cumulative Effects Assessment (REP3-027) predicts a ‘medium adverse’ effect on Tilbury Fort from the cumulative assessment of Tilbury2 with Tilbury Energy Centre. Para. 4.73 goes on to state that the significance of effect on the Fort would therefore be ‘major’. TC notes that Tilbury Fort is of a ‘very high’ sensitivity and value. The cumulative effect of Tilbury2, Tilbury Energy Centre and Lower Thames Crossing on the setting of Tilbury Fort could be ‘high adverse’, although TC accepts that the significance of effect would still be ‘major’ as noted within the cumulative assessment.</p>
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2.15	Landscape and Visual Effects		
2.15.1	Applicant, TC	<p><i>Mitigation Proposals.</i> In the SoCG between the Applicant and TC at deadline 3 [REP3-028], under matters under discussion, the SoCG states that TC considers that it may be possible to achieve wider landscape improvements as mitigation for the proposals, although TC accepts that land ownership issues will arise.</p> <p>i. Would the Applicant and TC update the Examination on the status of their discussions?</p>	<p>i. TC considers that there are three issues that could be addressed via the suggested wider landscape improvements. These are (1) to assist with incorporating the new planting associated with the infrastructure corridor into the historic landscape of the coastal grazing marsh, (2) enhancements to the area around Tilbury Fort to restore historic landscape features and enhance the setting of the Fort and (3) assisting in delivering landscape enhancement measures within the wider area of Tilbury. TC has suggested a number of possible improvements including ditch restoration, replacement fencing, tree planting and improvement to roadside verges. The Applicant is currently considering these suggestions with regard to potential s106 obligations, deliverability etc.</p>
2.16	Noise and Vibration		
2.16.7	TC	<p><i>Noise barriers.</i> The dDCO [REP3-002] states the noise barrier heights but not the locations. The dDCO requirement 9 does not require sign off of noise barrier design.</p> <p>i. Would TC state whether this should be signed off, or is TC content with the dDCO approach?</p>	<p>i. The development's "Scheme Design and Embedded Mitigation" detailed in paragraph 17.134 (page 17-36) of the Environmental Statement will minimise scheme impacts. It is proposed to install the noise barriers within the infrastructure corridor before the construction of the road and rail links to further mitigate impact. A noise reassessment will be made on the basis of the finalised operational design and procedures for the RoRo and CMAT (as required by the dDCO) and, where a significant effect is predicted for a receptor, an offer of sound insulation will be made. The noise reassessment is referred to in section 17.225 in the Environmental Statement.</p>

			<p>TC is satisfied with this approach and would expect to see the reassessment based on the finalised operational design at that stage.</p> <p>TC considers that there is limited scope to vary the position of the noise barriers within the spatial limits of the infrastructure corridor. Furthermore, in order to maximise the effectiveness of the barriers, and thereby reduce potential mitigation measures at noise-sensitive receptors, the barriers would in all likelihood be placed as close to the noise source as possible. As the noise barrier 'mitigation' would form part of the noise reassessment process, it is in the Applicant's interest to maximise their effectiveness. In these circumstances TC does not require sign-off of barrier location and is content with the dDCO approach.</p>
2.18	Traffic & Transportation		
2.18.1	Applicant, TC	<p><i>Lower Thames Crossing.</i> In the SoCG between the Applicant and TC at deadline 3 [REP3-028], under matters agreed, the parties state that "...it would be impossible for PoTLL to model the impact of Tilbury2 on traffic in Thurrock were the LTC be constructed, and it is therefore appropriate for this not to have been included within the ES and for it not to be carried out during the Examination process". However, a cumulative effects assessment has been submitted at deadline 3 [REP3-027].</p>	<p>i. The comment at paragraph 4.3.6 the SoCG was agreed in the context of specific discussions on transport and traffic modelling issues. The comment was agreed on the basis that both TC and the Applicant accept that any quantitative cumulative modelling of highways impacts of LTC with T2 is not possible at this stage</p> <p>To provide more clarity TC understands that the Applicant proposes amendment to the SoCG as follows:</p> <p>"It is agreed that Tilbury2 does not rely on the delivery</p>

		<p>i. Would the Applicant and TC agree that the wording in the SoCG needs to be amended to reflect this circumstance?</p>	<p>of the Lower Thames Crossing. It is agreed that the cumulative impact of the proposals with the LTC within Thurrock requires impacts to be quantitatively modelled and mitigated for and responsibility for this quantitative assessment should not fall between the two projects. It is agreed that as LTC has identified Tilbury2 as a cumulative project within its scoping report, this means that the LTC project will carry out this exercise. It is further agreed that as there is no traffic modelling for the LTC available at present it would be impossible for PoTLL to model the impact of Tilbury2 on traffic in Thurrock were the LTC be constructed, and it is therefore appropriate for this not to have been included within the ES and for it not to be carried out during the Examination process".</p> <p>The SoCG with TC also refers to the wider principle of cumulative assessment of both LTC and TEC at 4.15.3 and 4.15.4. It is accepted that these paragraphs need updating in the light of the submission of the Qualitative Cumulative Effects Assessment at Deadline 3 [REP2-027] and this will be undertaken for the next iteration of the SoCG.</p>
2.18.2	Applicant, TC, Highways England (HE)	<p><i>Local Traffic Network.</i> In the SoCG between the Applicant and TC at deadline 3 [REP3-028], under matters under discussion, the parties state that TC remains concerned about the impact of the proposals on the ASDA roundabout and how the mitigation measures proposed impact the local</p>	<p>i. As noted at 2.18.7 below the Applicant recently submitted the document titled "Asda Roundabout DCO Powers and Potential Scope of Works" (REP3-021). This document is currently being reviewed by TC and discussions with the Applicant are ongoing.</p>

		<p>road network. Discussions are continuing with TC and HE.</p> <p>i. Would the Applicant, TC and HE update the Examination on the status of these discussions?</p>	
2.18.7	Applicant, Highways England (HE), TC	<p><i>Asda Roundabout.</i></p> <p>At deadline 3, the Applicant submitted a document "Asda Roundabout DCO Powers and Potential Scope of Works" [REP3-021].</p> <p>i. Would HE and TC comment on the proposals in this document, and in particular the design supplied with the application, the potential alternatives, and the proposed amendments to the dDCO?</p>	<p>i. The content of the document titled "Asda Roundabout DCO Powers and Potential Scope of Works" (REP3-021) is currently being reviewed by TC and discussions with the Applicant are ongoing.</p>