

**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')**

**The Examining Authority's second written questions and requests for information (FWQs)**

**Issued on 8 May 2018.**

**Highways England's response**

**General Position**

Mitigation works

Highways England (HE) has now been provided with sufficient information from the Applicant to be able to confirm that the proposed development will not give rise to severe impacts on other parts of the SRN such that no mitigation works are required other than to the Asda roundabout and Junction 30 of the M25.

HE contends that the level of information provided by the Applicant in relation to the impact of the proposed development on Junction 30 remains inadequate.

The Applicant states in PoTLL/T2/EX/60 in response to Representations of Highways England in respect of the proposed Port Terminal at the Former Tilbury Power Station "Tilbury2": Paragraphs a1.1 – a1.7.

“It is worth noting that major improvements to Junction 30 and the A13 were completed in April 2017, which were designed to accommodate substantial increases in traffic. Highways England's website (<http://roads.highways.gov.uk/projects/m25-junction-30a13-corridor-relievingcongestion-scheme/>) notes in relation to the improvement scheme that traffic flows were predicted to increase by 25% by 2032 and that the junction directly services the Port of Tilbury and the Lakeside regional shopping centre and is regarded as the last major transport constraint to the development of the Thames Gateway area.”

It should be noted that these improvements were, as stated, a scheme to relieve congestion and not necessarily to remove it. The improvements represented an affordable (£79.3m) scheme which could be delivered within the existing highway boundary and

therefore without the delay that would have been incurred if Orders were required. The reference to constraint of development should be read as a constraint to the prosperity of existing development and not necessarily as removing constraints to future development. The improvements were in addition to improvement works carried out shortly beforehand to mitigate the impact of the London Gateway development on the junction; works carried out at the expense of the London Gateway developer.

It is important that future development should comply with the policy set out in Department for Transport Circular 02/2013 and particularly paragraph 34:

“Where insufficient capacity exists to provide for overall forecast demand at the time of opening, the impact of the development will be mitigated to ensure that at that time, the strategic road network is able to accommodate existing and development generated traffic. Any associated mitigation works should be appropriate to the overall connectivity and capacity of any affected part of the strategic road network.”

To the extent that the improvements to Junction 30 and the A13 did not provide sufficient spare capacity for the proposed development, the Applicant should mitigate the impact of the proposed development to Junction 30 and the A13. This will prevent the benefits delivered by public expenditure on the Junction 30 and the A13 improvement from being eroded to the detriment of existing development.

Based on the current limited information provided by the Applicant, HE's view is that there is evidence that the proposed development will result in severe adverse impacts on the A13 westbound and M25 northbound approaches to Junction 30. HE's assessment is based on the limited information made available by the Applicant supplemented by other readily available evidence. Evidence can be obtained by perusing the traffic layer of 'Google Maps' and by observing the CCTV layer on the Traffic England website. CCTV images show existing issues of queuing on the main carriageways of the westbound A13 and northbound M25 as a result of traffic exiting at Junction 30. It can be expected that this situation will deteriorate over time and will be exacerbated by the predicted traffic from the proposed development. Highways England submits that the onus is on the Applicant to provide detailed operational traffic assessments to demonstrate either that there will not be a severe adverse impact on the SRN as a result of the proposed development or that mitigation provided by the Applicant can offset such an impact.

Reaching Agreement on SRN Issues by the end of the Examination

On 10 May 2018 the Applicant provided Highways England with a programme towards reaching agreement on SRN issues by the end of the Examination. This provided for three rounds of discussion on the wording of the dDCO, however the Applicant did not arrange the Legal Meeting proposed for the week of 14 May 2018 and has instead requested a meeting in early June. Nevertheless it seems to Highways England that there is some prospect of reaching agreement on the wording of the dDCO by the end of the Examination.

The programme also includes assessment of M25 Junction 30 and mitigation works at Asda Roundabout. Reaching agreement on these appears to be entirely dependent on Highways England accepting that no mitigation is required at Junction 30 and that the mitigation originally offered by the Applicant at Asda Roundabout is acceptable. It seems to Highways England that there is little prospect of reaching agreement on these aspects by the end of the Examination.

In this context HE agrees with Amazon that the Transport Assessment should have undertaken a thorough review of the impact of Tilbury2 on the Asda roundabout which included an assessment of the Tilbury2 traffic with that from Amazon to ensure that the busy shift change over times are included in the impact assessment. (SWQ 2.18.10 below)

In order to improve the likelihood of agreement on traffic and transport by the end of the Examination HE proposes that, in parallel to discussions about physical mitigation, the Applicant should consider limiting the traffic entering and leaving the proposed development during peak periods. HE acknowledges that the Applicant has rejected this approach but submits that it is both valid and indeed preferred under paragraph 9 of Department for Transport Circular 02/2013 which states:

“Development proposals are likely to be acceptable if they can be accommodated within the existing capacity of a section (link or junction) of the strategic road network, or they do not increase demand for use of a section that is already operating at over-capacity levels, taking account of any travel plan, traffic management and/or capacity enhancement measures that may be agreed. However, development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

HE therefore proposes that a suitably worded Requirement could be imposed on use of the proposed development. This would not preclude physical mitigation being agreed either before the end of the Examination or at a later date when the Requirement might be altered by an amending DCO.

HE has recently reached agreement on restrictions on traffic generation with the promoter of the nearby Howbury Strategic Rail Freight Interchange (LB Bexley application 15/02673/OUTEA). In the case of that site traffic generation is to be restricted between the hours of 07:00 to 10:00 and 16:00 to 19:00. HE would wish to work with the Applicant to develop a mutually acceptable set of restrictions for the proposed development, taking into account the specific s of the site and the operations proposed to be carried out.

Whilst HE had hoped that sufficient information would have been provided by this stage, it may now be appropriate for HE to attend a further ISH to give more detailed evidence as to its concerns, unless further technical progress can be made with the Applicant in the interim. HE welcomes the Applicant's request for a SRN specific ISH to take place after the next ISHs, if required.

#### Temporary stopping up and temporary possession

HE continues to have concerns over the inclusion in the dDCO of powers for the Applicant to temporarily stop up the highways (Article 13 of the dDCO) and take temporary possession of the same (Articles 32 and 33). This point was addressed in HE's deadline 3 Response [REP3-046]. HE considers that the extent of the powers sought by the Applicant to take temporary possession and for stopping up in relation to the works to be undertaken on the SRN are not justified. As was pointed out by HE in its deadline 3 Response, at the issue specific hearing on 20 April 2018, it appeared to be accepted by the Applicant that these powers in respect of the SRN were not strictly necessary, due to the availability of other powers (contained in Articles 8-10 and 26 of the dDCO) whereby the SRN retains its Public Right Of Way (PROW) status.

Even if the principle need for these powers could be made out, as proposed they are entirely unsuitable as no replacement arrangements have been identified to ensure that traffic can continue to access the surrounding network and other statutory undertakers have alternative access to apparatus during the period of temporary possession. If however, the Applicant proposes more moderate and minor works, then these are readily capable of being dealt with the SRN retaining its status of a PROW. HE can only conclude that the Applicant has no serious intention (and therefore) need for the application of these powers in respect of the SRN. It is not a sufficient defence of the Applicant to suggest that this lack of need is somehow made acceptable by providing HE with a consent process under protective provisions. The case for these powers is simply not made and the assumption (if these powers are made available) will otherwise be that HE should seek to provide that access on suitable terms whereas HE has been provided with no information from the Applicant that suggests that these powers could be made acceptable to HE acting reasonably.

As further demonstration of HE's concerns, it draws attention to the maintenance arrangements in place for this area of the SRN (which includes the Asda Roundabout). It is governed by a project finance based DBFO Contract, which effectively

subcontracts the operation and maintenance of this area of the SRN on a long term basis to a private contractor (backed by funders). There are complex change and interface processes in place to deal with any changes to the asset that HE has to follow, and it cannot just dictate a change to the network.

HE also has to be satisfied that upon the lifting of the temporary stopping up status that the highway is safe for public use and meets all appropriate standards. The Applicant has not set out how the temporary stopping up will be lifted. The Department for Transport publishes an Advice Note on the Road Adoptions at

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/609561/advice-note-on-road-adoptions.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/609561/advice-note-on-road-adoptions.pdf)

This sets out the normal processes whereby a private street becomes a PROW (see also SWQ 2.8.22 below).

The short periods of notice proposed by the Applicant are generally insufficient. HE will have to impose more onerous terms on the Applicant as part of works plan approval under the protective provisions and re-iterates that its general expectation is for promoters to enter into the appropriate terms required under its highways (s278) agreement (Article 15) or to incorporate greater specificity in the form of protective provisions to anticipate its reasonable requirements in this regard.

## ExA' Second Written Questions – HE Responses

The following table sets out the Examining Authority's (ExA's (the Panel's)) second written questions and requests for information - SWQs.

Questions are set out using an issues-based framework derived from, but not limited to, the Initial Assessment of Principal Issues provided as Annex B to the Rule 6 letter of 22 January 2018, and also the first written questions [PD-007].

Column 2 of the table indicates the Applicant and/or which Interested Parties (IPs) and Other Persons each question is directed to. The Panel would be grateful if all persons named could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number which starts with 2 (indicating that it is from our SWQs) and then has an issue number and a question number. For example, the first question on air quality is identified as ExQ2.1.1. When you are answering a question, please start your answer by quoting the unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the Panel if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please contact [Tilbury2@pins.gsi.gov.uk](mailto:Tilbury2@pins.gsi.gov.uk) and include 'Tilbury2 ExQ1' in the subject line of your email.

Unless otherwise stated in the question, responses are due by **Deadline 4 – Tuesday 22 May 2018**.

### Abbreviations used

<b>Art</b>	<i>Article</i>	<b>KCC</b>	<i>Kent County Council</i>
<b>AW</b>	<i>Anglian Water</i>	<b>LOAEL</b>	<i>Lowest Observed Adverse Effect Level</i>
<b>AWA</b>	<i>Anglian Water Authority</i>	<b>LTC</b>	<i>Lower Thames Crossing</i>
<b>CA</b>	<i>Compulsory Acquisition</i>	<b>MMO</b>	<i>Marine Management Organisation</i>
<b>CMAT</b>	<i>Construction Materials &amp; Aggregates Terminal</i>	<b>NE</b>	<i>Natural England</i>
<b>DCO</b>	<i>Development Consent Order</i>	<b>NPSE</b>	<i>Noise Policy Statement for England</i>
<b>dDCO</b>	<i>Draft DCO [APP-016]</i>	<b>NR</b>	<i>Network Rail</i>
<b>DML</b>	<i>Deemed Marine Licence</i>	<b>NSRs</b>	<i>Noise Sensitive Receptors</i>
<b>EA</b>	<i>Environment Agency</i>	<b>OMP</b>	<i>Operations Management Plan</i>
<b>ECC</b>	<i>Essex County Council</i>	<b>PD</b>	<i>Permitted Development</i>
<b>EH</b>	<i>English Heritage</i>	<b>PLA</b>	<i>Port of London Authority</i>
<b>EMCP</b>	<i>Ecological Mitigation Compensation Plan</i>	<b>PoTLL</b>	<i>Port of Tilbury London Limited</i>
<b>ES</b>	<i>Environmental Statement</i>	<b>PMAs</b>	<i>Private Means of Access</i>
<b>ExA</b>	<i>Examining Authority</i>	<b>RWE</b>	<i>RWE Generation UK</i>
<b>GBC</b>	<i>Gravesham Borough Council</i>	<b>SOAEL</b>	<i>Significant Observed Adverse Effect Level</i>
<b>HE</b>	<i>Highways England</i>	<b>SoCG</b>	<i>Statement of Common Ground</i>
<b>HGV</b>	<i>Heavy Goods Vehicle</i>	<b>SRN</b>	<i>Strategic Road Network</i>
<b>Hist E</b>	<i>Historic England</i>	<b>TC</b>	<i>Thurrock Council</i>
<b>ISH</b>	<i>Issue Specific Hearing</i>		

### The Examination Library

References in these questions set out in square brackets (for example [APP-010]) are to documents catalogued in the Examination Library. The Examination Library can be obtained from the following link:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR030003/TR030003-000523-Tilbury%20%20Examination%20Library.pdf>

It will be updated as the Examination progresses.

<b>SWQ Question to:</b>		<b>Question:</b>	<b>HE Comments</b>
<b>2.0.</b>	<b>General and Cross-topic Questions</b>		
2.0.1		No further questions at this stage.	
<b>2.1.</b>	<b>Air Quality</b>		
2.1.1	Applicant, Gravesham Borough Council (GBC)	<p>In the SoCG between the Applicant and GBC at deadline 3 [REP3-028], the SoCG identifies various matters that are under discussion including site survey work for NO<sub>x</sub> and PM<sub>10</sub>, and shipping emissions.</p> <p>i. Would the Applicant and GBC update the Examination on the status of their discussions?</p>	
<b>2.2.</b>	<b>Biodiversity, Ecology and Natural Environment</b>		
2.2.1	Applicant	Would the Applicant state what impact the extended Tilbury Power Station Local Wildlife Site has on the environmental statement for Tilbury2?	

SWQ Question to:		Question:	HE Comments
2.2.2	Applicant	The Applicant is requested to provide an updated version of the Environmental Management and Compensation Plan (EMCP) a week before the hearings scheduled for the end of June 2018, setting out in particular onsite and offsite mitigation and compensation for open mosaic on previously developed land, and how such sites are expected to be maintained beyond the commitment to 25 years.	
<b>2.3.</b>	<b>Compulsory Acquisition</b>		
2.3.1	Applicant	Can the Applicant please confirm the costs of constructing Tilbury2 as £136m of which the estimated costs of land acquisition and compensation are estimated at £12.4m as set out in the Funding Statement [APP-019]?	
<b>2.4.</b>	<b>Consideration of Alternatives</b>		
2.4.1		No further questions at this stage.	

SWQ Question to:		Question:	HE Comments
<b>2.5.</b>	<b>Construction</b>		
2.5.1		No further questions at this stage.	
<b>2.6.</b>	<b>Contaminated Land and Waste</b>		
2.6.1		No further questions at this stage.	
<b>2.7.</b>	<b>Cumulative and Combined Impacts</b>		
2.7.1	Natural England (NE), Highways England (HE) and Historic England (Hist E)	NE, HE and Hist E are requested to provide their views on the Qualitative Cumulative Effects Analysis submitted by the Applicant at deadline 3 [REP3-027] a week before the hearings scheduled for the end of June 2018.	Highways England will engage further with the Applicant on this matter and provide views as requested by the ExA.
<b>2.8.</b>	<b>Draft Development Consent Order (dDCO) Matters</b>		
2.8.1	Applicant	<i>Art 2: Interpretation.</i> The Applicant clarified its position in the summary of the case made at the DCO hearing on 21 February 2018 [REP1-015].	

SWQ	Question to:	Question:	HE Comments
		<p>i. Re the statement that all maintenance operations would fall within the environmental envelope related to the initial construction phase, this may perhaps be the case in the ordinary sense of "maintain", but is it true with the extended meaning?</p> <p>ii. If the "extended port limits" are the same as the harbour limits (as shown on the harbour limits plan), why not adopt a single term to cover both?</p>	
2.8.2	RWE Generation UK (RWE), Anglian Water Authority (AWA)	<p><i>Art 3: Disapplication of legislation, etc.</i> In its summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], the Applicant explains the need to disapply works licences in favour of RWE and AWA. Art 3 has been amended in revision 2 of the dDCO at deadline 3 [REP3-002].</p> <p>i. <i>Art 3(2):</i> Are RWE and AWA content with the proposals for the disapplication of works licences granted by PLA to them?</p>	
2.8.3	Applicant, Port of	<i>Art 4: Application of enactments relating to</i>	

SWQ	Question to:	Question:	HE Comments
	London Authority (PLA)	<p><i>the Port of Tilbury.</i></p> <ul style="list-style-type: none"> <li>i. Would the Applicant explain the disapplications at Art 4(2)?</li> <li>ii. Does “undertaking” at 4(3)(c) need a definition in Art 2?</li> <li>iii. Insert “Port of” before “Tilbury” at 4(3)(c)?</li> <li>iv. Provide a definition of “The General Trading Regulations” at 4(5) in Art 2?</li> </ul>	
2.8.4	Applicant	<p><i>Art 5: Incorporation of the 1845 Act.</i> At 5(2) line 2 – should “the company” be upper case?</p>	
2.8.5	Applicant	<p><i>Art 6: Development Consent granted by the Order.</i> Permitted development rights apply only to planning permissions granted under the 1990 Act and not to development authorised by a DCO. However, the dDCO makes the whole site within the Order limits operational land and thus capable of supporting PD rights.</p> <ul style="list-style-type: none"> <li>i. Can the Applicant please provide a table identifying which elements of the authorised development are considered to be outside the scope of PD rights</li> </ul>	

SWQ Question to:		Question:	HE Comments
		and thus would require specific planning permission or development consent?	
2.8.6	Applicant	<p><i>Art 7: Limits of deviation.</i></p> <ul style="list-style-type: none"> <li>i. Art 7(b), (c) and (d) - linear and non-linear works are shown on the works plans, and it would be clearer if they are specified as well in this article;</li> <li>ii. Art 7(d)(ii) - delete "as may be found to be necessary or convenient"?</li> <li>iii. Art 7(e) - line 2 - delete "up".</li> </ul>	
2.8.7	Applicant	<p><i>Art 8: Street works.</i></p> <ul style="list-style-type: none"> <li>i. In its summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], the Applicant identifies the street authority for each street that would be affected by the Order. Can the Applicant confirm that there are no other streets affected, ie private streets not the responsibility of Thurrock Council or Highways England?</li> <li>ii. Art 8(1) - in the light of paragraph 3.2 of the Applicant's paper concerning the</li> </ul>	

SWQ Question to:		Question:	HE Comments
		Asda Roundabout DCO powers (PoTLL/T2/EX/85), in addition to consideration of adverse effects not assessed in the environmental statement, can the Applicant say what constraints apply to this article beyond the Order limits?	
2.8.8	Thurrock Council (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>ii. Art 10(6) – would the Applicant explain why it is appropriate for an Order to specify what matters a court should have regard to?</p>	
2.8.9	Applicant, Thurrock	<i>Art 11: Classification of roads.</i>	

SWQ Question to:		Question:	HE Comments
	Council (TC)	<ul style="list-style-type: none"> <li>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?</li> <li>ii. Art 11(5) - insert "or other similar media" after Thurrock Gazette to safeguard against the future demise of this newspaper.</li> </ul>	
2.8.10	Applicant, Highways England (HE)	<p><i>Art 12: Permanent stopping up and restriction of use of highways and private means of access.</i></p> <ul style="list-style-type: none"> <li>i. Further to their deadline 3 submissions, would the Applicant and HE update the Examination on the status of their discussions?</li> <li>ii. Art 12(1), line 4 – "private means of access" is given an abbreviation (PMAs, and delete "s") which is not then used in the rest of this article.</li> </ul>	The proposed permanent stoppings up and restrictions in Article 12 do not affect the SRN. Highways England reserves its position in respect of any new permanent stoppings up that might be proposed by the Applicant.

SWQ	Question to:	Question:	HE Comments
2.8.11	Applicant	<i>Art 13: Temporary stopping up and restriction of use of streets. As Art 8(1) above.</i>	
2.8.12	Applicant	<i>Art 15: Agreements with street authorities. As Art 8(1) above.</i>	
2.8.13	Applicant	<i>Art 17: Level crossings. Is this article needed?</i>	
2.8.14	Applicant, Environment Agency (EA)	<p><i>Art 18: Discharge of water.</i></p> <ul style="list-style-type: none"> <li>i. In its summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], the Applicant states that discussions are ongoing with EA on protective provisions. Would the Applicant and EA update the Examination on the status of their discussions?</li> <li>ii. Art 18(7)(a) – would the Applicant confirm whether references to the Homes and Communities Agency, a joint planning board or an urban development corporation are needed?</li> </ul>	
2.8.15	Applicant	<i>Art 19: Protective works to buildings. There is no limit as to how far from the Order limits</i>	

SWQ Question to:		Question:	HE Comments
		such protective works could be carried out. Is a boundary of say 250 m appropriate?	
2.8.16	Applicant	<i>Art 20: Authority to survey and investigate land. As Art 19.</i>	
2.8.17	Applicant, Port of London Authority (PLA)	<p><i>Art 22: Works in the River Thames – conditions, and Art 23: Compulsory acquisition of land.</i></p> <ul style="list-style-type: none"> <li>i. In its summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], the Applicant states that Art 22 is mostly agreed, save for some final points under discussion, and that discussions are also ongoing on Art 23 with regard to the Applicant acquiring the river bed. Would the Applicant and PLA update the Examination on these matters?</li> <li>ii. Art 22 - uppercase "River" as elsewhere in the Order and Schedule 1 for example?</li> <li>iii. Art 22(8) - can this be simplified, as its meaning is difficult to understand?</li> </ul>	

SWQ Question to:		Question:	HE Comments
2.8.18	Applicant	<i>Art 24: Time limit for exercise of powers to possess land temporarily or to acquire land compulsorily. Re-order heading as "Time limit for exercise of powers to acquire land compulsorily or to possess land temporarily"?</i>	
2.8.19	Applicant	<i>Art 25: Compulsory acquisition of rights and imposition of restrictive covenants, Art 26: Acquisition of subsoil or airspace only, Art 30: Application of Part 1 of Compulsory Purchase Act 1965, and Art 31: Application of Compulsory Purchase (Vetting Declarations) Act 1981. In the Applicant's Explanation of Changes to the DCO at deadline 1 [REP1-005], the Applicant states that Arts 25, 26, 30 and 31 and Schedule 5 have been updated to take account of the position of the Department for Transport, following the passing of the Housing and Planning Act 2016, set out in the M20 J10a DCO Order. However, the updates do not seem to reflect the corresponding articles in the M20 J10a Order, with general references being used instead of specific plot references.</i>	

SWQ	Question to:	Question:	HE Comments
2.8.20	Applicant	<p>i. Would the Applicant explain why this is?</p> <p><i>Art 32: Temporary use of land for carrying out the authorised development.</i> In its summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], the Applicant clarifies the intention of A32(1)(d).: Art 32 allows the temporary occupation of any of the land intended for permanent acquisition before the land is acquired. Permanent works will take place on the land, which will then be acquired 'as necessary'.</p> <p>i. Would the Applicant state what ensures the triggering of compulsory acquisition – and the attendant rights of compensation for CA – where the permanent works could just be left in situ under temporary possession powers?</p> <p>ii. Compensation under Art 32(5) is payable in respect of "loss or damage arising from the exercise" of TP powers. If permanent works are left on the land without acquisition, would such compensation differ from that payable under the compensation code</p>	

SWQ	Question to:	Question:	HE Comments
		<p>in respect of compulsory acquisition?</p> <p>iii. Re the statement that <i>"where works will be undertaken by the Applicant, but will be owned and maintained by third parties after the works are complete"</i>, how will ownership transfer to third parties without intervening CA by the Applicant?</p>	
2.8.21	Thurrock Council (TC), Highways England (HE), Port of London Authority (PLA)	<p><i>Art 32(2): Temporary use of land for carrying out the authorised development - Notice Period.</i> 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> <p>ii. Re the statement regarding material detriment, would the Applicant clarify why material detriment will apply to temporary possession? If that is the case, why would national legislation providing for counter notice be necessary?</p>	<p>HE's interest is restricted to the proposed temporary use of Asda Roundabout.</p> <p>In relation to the notice periods for temporary possession, HE considers that the starting point should be to consider whether the powers for the temporary stopping up of the highway and temporary use of land are required. As stated in our Deadline 3 submission (Rep3-046), Highways England does not believe that the use of temporary powers sought for plots 01/01 and 01/07 are necessary and does not agree generally with the Applicant's proposals for carrying out work within the SRN.</p> <p>The combination of Art 8,9,10 and 15 in the dDCO provides the Applicant with all the powers that it needs to enter into the public highway and carry out works of improvement,</p>

SWQ	Question to:	Question:	HE Comments
			<p>details of which HE will first need to approve and the terms of which will need to be set out in a highways agreement (Art 15) or sufficiently prescribed in the protective provisions to provide HE with greater certainty in respect of the matters that it expects to be entitled to treat as reasonable requirements of its approval.</p> <p>HE had understood there to have been a general understanding at the ISH on 20 April 2018 that these powers are not required by the Applicant in respect of the SRN.</p> <p>If temporary use powers are deemed necessary, then the Applicant must design the permanent and temporary components of Work 11 and any other mitigation works required to the SRN to a level of detail such that the necessary and sufficient areas required for the temporary use are identified and incorporated into the dDCO. HE considers that any temporary stopping up and possession is not supported by sufficient replacement land or rights over land to provide continued access for traffic and other statutory undertakers. Any such proposal would need to be supported by other mitigation such as contraflow crossovers</p>

SWQ	Question to:	Question:	HE Comments
			<p>or other diversionary measures (not provided in the current proposals).</p> <p>In the event that the Applicant takes temporary possession of Asda Roundabout, Highways England as landowner would become responsible for it when the temporary possession ceases. Highways England would therefore be liable to those using it even if it were not at the time a highway. To protect against this problem, Article 33 must be varied to provide that the Applicant may not relinquish temporary possession of the land at Asda Roundabout unless and until its status as a PROW also resumes. The process for reinstatement as a public highway at the end of the temporary use needs to be explained by the Applicant and secured in the dDCO. The Applicant expects much greater certainty in this regard through a highways agreement (Art 15) or the form of protective provisions.</p> <p>In terms of the notice period, if the powers are consider necessary, the notice period suggested is inadequate, in particular because it will put HE in breach of the maintenance</p>

SWQ	Question to:	Question:	HE Comments
			<p>arrangements which they have in place for this area of the SRN. These arrangements are governed by a project financed based DBFO Contract as it falls within the scope of the £6billion + M25 DBFO Widening Project. This means that the maintenance arrangements are much more complex as this effectively subcontracts the operation and maintenance of this area of the SRN on a long term basis (30 years) to a private contractor who is backed by funders. As this arrangement is less of a call-off nature to other arrangements HE may have on other areas of the SRN, there are complex change and interface processes in place to deal with any changes to the asset that HE has to follow, it cannot just dictate a change to the network. The time periods and requirements of these processes are not aligned with the approach sought by the Applicant and would cause HE significant difficulties and put HE in breach of various provisions of this contract. In addition, most changes require approval of the DBFO Company's funders which also needs to be considered. To provide further context, the process for a service change includes a 28 day notice period at the start of the process, which</p>

SWQ	Question to:	Question:	HE Comments
			<p>allows the DBFO company to reject it. Even if not rejected, there are a number of further processes for the parties to undertake to bring about the stopping up. The temporary removal of the Asda Roundabout from the Contract will bring about consequences for HE with regard to its contractual commitments to the BDFO contractor and is expected to give rise to potential for damages/losses payable under the contract. Any indemnity from the Applicant will have to at least provide back to back indemnity for such damages/losses. Higher and more specific levels of control and loss/expenses recovery are required in protective provisions.</p>
2.8.22	Thurrock Council (TC), Highways England (HE), Port of London Authority (PLA)	<p><i>Art 33: Temporary use of land for maintaining the authorised development.</i> 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> <ul style="list-style-type: none"> <li>i. Would TC, HE and PLA state their positions on this matter?</li> <li>ii. Would the Applicant state where it has been tested in practice?</li> <li>iii. Art 33(3) - insert the period of</li> </ul>	<p>Our response to question 2.8.21 applies equally to this question.</p> <p>Also, in accordance with the Department for Transport Advice Note on Road Adoptions: <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/609561/advice-note-on-road-adoptions.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/609561/advice-note-on-road-adoptions.pdf</a></p> <p>the Applicant should retain full responsibility for the land from the time of temporary stopping up until it reverts to being a PROW at</p>

SWQ	Question to:	Question:	HE Comments
		temporary possession as in Art 32(2)? iv. Art 33(4) - insert "temporary" before "possession"; v. Art 33(9) – as above.	least one year following completion of works and after all maintenance and Road Safety Audit matters have been resolved.
2.8.23	Applicant	<i>Art 34: Statutory undertakers.</i> Would the Applicant state how this article deals with temporary possession and maintenance requirements?	
2.8.24	Applicant	<i>Art 35: Apparatus and rights of statutory undertakers in stopped-up streets.</i> The Applicant states in the summary of the case made at the DCO hearing on 21 February 2018 [REP1-015] that the wording with regard to "statutory utility" is preceded in all made DCOs.  i. Would the Applicant please note that the definition of "statutory undertaker" in the Wrexham Energy Centre DCO was not so limited?  ii. Should the heading be "statutory utilities" rather than "statutory undertakers" in view of the definition in	

SWQ Question to:		Question:	HE Comments
		subparagraph (8)?	
2.8.25	Applicant	<p><i>Art 36: Recovery of costs of new connection.</i></p> <p>i. Art 36(1) and (4) - should "public utility undertaker" be "statutory undertaker"; alternatively, the first line to refer to "statutory utility"?</p>	
2.8.26	Applicant	<p><i>Art 37: Special category land: West Tilbury Common Land.</i></p> <p>Art 37(4)(a) - why is Art 20 excluded?</p>	
2.8.27	Applicant	<p><i>Art 39: Set-off for enhancement in value of retained land.</i> The Applicant states, in the summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], that Section 7 of the 1961 Act does not apply to the authorised development and paragraphs (a) and (b) of Art 39 will apply instead.</p> <p>i. Would the Applicant explain why it is necessary or appropriate to apply the simplified provisions in the DCO instead of the national legislation?</p>	

SWQ	Question to:	Question:	HE Comments
2.8.28	Applicant	<p><i>Art 41: Operation and maintenance of the authorised development.</i> The Applicant states, in the summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], that Art 41 is not an extraordinary provision and has been used in a number of port DCOs.</p> <ul style="list-style-type: none"> <li>i. Would the Applicant provide examples and explain the rationale for the extensive permitted development (PD) rights given to ports?</li> <li>ii. Can the Applicant also identify which of the Art 41 works would not benefit from PD rights?</li> <li>iii. Although this article deals with operation and maintenance it appears to cover similar matters to ancillary works in Schedule 1 relating to construction works. Indeed, subparagraph 2 refers to construction as well as maintenance, whilst item (g) of the ancillary works refers to operation and maintenance. Given the definition of maintain in article 2, why is subparagraph 2 needed?</li> </ul>	

SWQ		Question to:	Question:	HE Comments
2.8.29	Applicant		<p><i>Art 42: Power to appropriate.</i></p> <p>i. Art 42(2) - line 1 - "of" not "or"?</p>	
2.8.30	Applicant		<p><i>Art 45: Byelaws relating to the extended port limits.</i></p> <p>i. Art 45(1) - who is the "confirming authority"?</p>	
2.8.31	Applicant		<p><i>Art 46: Fixed penalty notices.</i></p> <p>i. As the justification for this article is the Silvertown Tunnel DCO, this has not yet been decided. The reference should be to the Local Government and Public Involvement in Health Act 2007, s130 of which inserts a new section into the Local Government Act 1972 concerning the abilities of local authorities to make byelaws. On what basis does the Applicant consider that the Secretary of State's powers extend to byelaws made other than by local authorities?</p> <p>ii. A46(7) and (10) - refer simply to payment being made by electronic means rather than definitions of app, credit and debit cards?</p>	

SWQ	Question to:	Question:	HE Comments
2.8.32	Applicant	<p><i>Art 51: Consent to transfer benefit of Order.</i></p> <ul style="list-style-type: none"> <li>i. Art 51(6) – suggest delete. The Secretary of State is unlikely to be directed as to whom he should consult;</li> <li>ii. Art 51(7) - also PLA and EA to be notified as well as MMO?</li> </ul>	
2.8.33	Applicant, Thurrock Council (TC), Highways England (HE)	<p><i>Art 52: Traffic regulation measures.</i></p> <ul style="list-style-type: none"> <li>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 at deadline 3 [REP3-002]. Would the Applicant, TC and HE update the Examination on their positions with regard to Art 52?</li> <li>ii. Art 52(1)(b) - line 2 - "other" rather than "others"?</li> </ul>	<p><i>Revised DCO is at <a href="https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR030003/TR030003-000743-PoTLL_Revision%20of%20the%20draft%20Development%20Consent%20Order%20-%20Track%20Changes.pdf">https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR030003/TR030003-000743-PoTLL_Revision%20of%20the%20draft%20Development%20Consent%20Order%20-%20Track%20Changes.pdf</a></i></p> <p>Highways England welcomes the inclusion of the new Section 52(9) but our representations in respect of other matters remain current.</p>

SWQ	Question to:	Question:	HE Comments
		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	Applicant, Thurrock Council, Gravesham Borough Council, Environment Agency, Port of London Authority, Marine Management Organisation (MMO)	<p><i>Art 57: Consents, agreements and approvals.</i>                      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> 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 <i>had</i> been taken after this Order came into force”?	

SWQ	Question to:	Question:	HE Comments
2.8.35	Applicant	<p><i>Schedule 1: Authorised Development – General.</i></p> <ul style="list-style-type: none"> <li>i. The Applicant states, in the summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], that ‘the works are labelled “to include” because of the existence of the ancillary works – these could take place within the areas shown on the Works Plans for these Works’. There is nothing in the description of the ancillary works to limit their extent, and the Works Plans only delineate the areas within which the Works will take place. Would the Applicant explain why Schedule 1 does not define what may take place within those areas?</li> <li>ii. Several Works refer to “port facilities”. This is imprecise and therefore can a more accurate description be provided of what these cover?</li> <li>iii. Work No. 5 - use CMAT abbreviation?</li> <li>iv. Work No. 8 (a) (i) - are “silo facilities” more than just a single silo and if so what do they contain? See also</li> </ul>	

SWQ Question to:		Question:	HE Comments
		requirement 3 (3); v. Work No. 9(a) (ii) – should the reference be either to sheet 2 of the rights of way and access plans, or sheet 1 of the works plans? vi. Work No. 9(c) (i) and (ii) - “carries” not “carried”? vii. Work No. 10(a) - insert “and” between “highway” and “new”? viii. Ancillary Works (a) to (d) - why are these needed given Arts 8 and 10? ix. Ancillary works (v) and (x) (previously (x) and (z) respectively) still seem excessive despite the Applicant’s explanation. Are they necessary, and if they are, can they not be more tightly constrained?	
2.8.36	Applicant	Schedule 2: <i>Part 1</i> , Requirements - R1: Interpretation. The Applicant states, in the summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], that “ <i>ordnance datum will vary at different points across the country, and universal</i>	

SWQ	Question to:	Question:	HE Comments
		<p><i>practice is not to define it". However, in the examples given, ordnance datum is defined as "ordnance datum means the datum line or mean sea level to which all heights are referred in the Ordnance Survey".</i></p> <p>i. Would the Applicant explain why such a definition has not been included?</p>	
2.8.37	Applicant, Thurrock Council (TC), Historic England (Hist E)	<p><i>Schedule 2: Part 1, Requirements - R3: External appearance and height of authorised development. 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.</i></p> <p>i. Would the Applicant, TC and Hist E state their current positions on this matter?</p> <p>ii. At 3(1) line 2 following (f) - "works have" rather than "works has".</p> <p>iii. At 3(1)(d) and (e) - reference to "facilities" is imprecise.</p>	

SWQ	Question to:	Question:	HE Comments
2.8.38	Applicant	<p><i>Schedule 2: Part 1, Requirements - R5: Offsite mitigation.</i> The Applicant states, in the summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], that R5 would be re-written to account for the content of the Ecological Management and Compensation Plan (EMCP).</p> <ul style="list-style-type: none"> <li>i. Would the Applicant insert a reference to Ecological Management and Compensation Plan (EMCP) at 5(1).</li> <li>ii. Rather than “provided and implemented”, should R5(3) say “provided, managed and maintained” for consistency and certainty?</li> </ul>	
2.8.39	Applicant	<p><i>Schedule 2: Part 1, Requirements – R6: Terrestrial written scheme of archaeological investigation.</i> Does the Applicant agree with Historic England’s proposed expansion of this requirement to cover terrestrial archaeology set out in its submission at deadline 3 [REP3-044]?</p>	
2.8.40	Applicant	<p><i>Schedule 2: Part 1, Requirements - R10: Noise monitoring and mitigation.</i> This</p>	

SWQ Question to:		Question:	HE Comments
		<p>requirement [REP3-002] refers to the first operational use of Works 1 to 8.</p> <ul style="list-style-type: none"> <li>i. Would the Applicant explain why Works 9 to 12 are not also included?</li> <li>ii. Add "inclusive" after "Work Nos. 1 to 8" at 10(1) and (3)?</li> <li>iii. Should 10(3) read "in consultation with Gravesham Borough Council" rather than "and Gravesham Borough Council"?</li> </ul>	
2.8.41	Thurrock Council (TC)	<p><i>Schedule 2: Part 1, Requirements - R13: Interpretation (re procedure for discharge of requirements)</i>. 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> <ul style="list-style-type: none"> <li>i. Would TC state its current position on this matter?</li> </ul>	
2.8.42	Applicant	<i>Schedule 2 Part 2, Paragraph 16 (2)</i> – would	

SWQ	Question to:	Question:	HE Comments
		the Applicant state the justification for a bespoke appeals process, rather than simply importing articles 78 and 79 of the Town and Country Planning Act 1990?	
2.8.43	Applicant, Thurrock Council (TC)	<p><i>Schedule 3: Classification of roads, etc.</i> 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> <p>i. Would the Applicant and TC state the current position on the status of Schedule 3?</p> <p>ii. Why are the subheadings uppercase?</p>	
2.8.44	Applicant, Thurrock Council (TC), Highways England (HE)	<p><i>Schedule 4: Permanent stopping up of highways and private means of access &amp; provision of new highways and private means of access.</i> 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>	Schedule 4 does not currently affect HE's interests. Highways England reserves its position in respect of any new permanent stoppings up that might be proposed by the Applicant.

SWQ	Question to:	Question:	HE Comments
		<ul style="list-style-type: none"> <li>i. Would the Applicant, TC and HE state the current position on the status of Schedule 4?</li> <li>ii. Private means of access – as comment relating to Art 12;</li> <li>iii. Line 1 - delete "In--- plans".</li> </ul>	
2.8.45	Applicant, Port of London Authority (PLA)	<p><i>Schedule 7: Port premises byelaws.</i> The Applicant states, in the summary of the case made at the DCO hearing on 21 February 2018 [REP1-015], that PLA was largely content with what was included but needed to review it in more detail.</p> <ul style="list-style-type: none"> <li>i. Would the Applicant and PLA update the Examination on the status of their discussions on Schedule 7?</li> <li>ii. Would the Applicant state whether these byelaws simply replicate the existing port byelaws? If not, how do they relate to them operationally?</li> <li>iii. As with Art 45, Would the Applicant state who is the confirming authority?</li> </ul>	
2.8.46	Applicant, Thurrock Council (TC),	<p><i>Schedule 8: Traffic Regulation Measures, etc.</i> The Applicant states, in the summary of the</p>	HE remains of the view that the 40mph speed limit on the A1089 needs to be extended to

SWQ	Question to:	Question:	HE Comments
	Highways England (HE)	<p>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"> <li>i. Would the Applicant, TC and HE update the Examination on the status of their discussions on Schedule 8?</li> <li>ii. Delete "speed limit to be imposed" from each entry in column 2.</li> </ul>	<p>cover Asda Roundabout. Agreement has not yet been reached with the Applicant on the mitigation required at Asda Roundabout.</p>
2.8.47	Applicant, Marine Management Organisation (MMO)	<p><i>Schedule 9: Deemed marine licence (DML).</i> The Applicant states, in the summary of the case made at the DCO hearing on 21 February 2018 [REP1-15] that discussions are ongoing with MMO on the DML. Submissions at deadline 3 relate.</p> <ul style="list-style-type: none"> <li>i. Would the Applicant and MMO update the Examination on the status of their discussions on Schedule 9?</li> <li>ii. The heading above Part 1 paragraph 2 should be bold;</li> <li>iii. Removal of maintenance dredging from</li> </ul>	

SWQ	Question to:	Question:	HE Comments
		<p>Part 1 paragraph 3(1)(a) of the DML as a marine licensable activity is explained by the Applicant as reflecting the agreed position with the MMO. However, the deadline 3 submission from the MMO [REP3-043] says that both the MMO and the PLA agree maritime dredging should be controlled within the protective provisions for the PLA and the DML. Can the Applicant and MMO please clarify the position?</p> <p>iv. Part 2 paragraphs 11 and 12 - insert "construction" before several references to "method statement";</p> <p>v. The draft SoCG between the Applicant and MMO [REP3-028] states that the 14-hour non-piling window has been added to the draft Deemed Marine Licence (DML). ExA cannot locate reference to the 14-hour non-piling window in Part 2 paragraph 13 of the DML. Would the Applicant and MMO state whether it is to be explicitly referenced or just controlled through the piling method statement?</p>	

SWQ	Question to:	Question:	HE Comments
		<p>vi. The MMO has requested that Part 2 paragraph 13 should be updated to reference hours of week/weekend during which piling will not take place. Would the Applicant please advise when this will be done?</p> <p>vii. Part 2 paragraph 13 – what are the Applicant’s views about restricting piling between September and March to avoid disturbance to overwintering birds as identified by Natural England, and limits to hours of working as requested by the MMO?</p> <p>viii. Part 2 paragraph 14 – should there be additional references to boundaries and WID for example?</p> <p>ix. Part 2 paragraph 14 - what are the Applicant’s views about restricting maintenance dredging between September and March and capital dredging between July and April, to allow sediment to settle and so avoid disturbance to overwintering birds as identified by Natural England in its Written Representation [REP1-074]?</p>	

SWQ	Question to:	Question:	HE Comments
		<p>x. Part 2 paragraph 14 – the maximum dredging depth should be referred to here as determined on the basis of sediment sampling to be carried out every 3 years under paragraph 12;</p> <p>xi. Part 2, paragraph 15, would the Applicant please provide revisions to the marine Written Scheme of Investigation to meet the request of Historic England set out in its submissions at deadline 3 [REP3-044];</p> <p>xii. Part 3, paragraph 28 (1) and (2), would the Applicant state why it has inserted “as reasonably practicable after” rather than a time limit as originally drafted?</p>	
2.8.48	Applicant, Port of London Authority (PLA), Environment Agency (EA), Thurrock Council (TC), Network Rail (NR), Highways England (HE), RWE Engineering (RWE),	<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	The protective provisions have not been provided in the form which HE reasonably require based on its current practice and to put the promoter in the same position as any other and having regard to its status as a statutory undertaker (but not a relevant highway authority). We are in discussions with the promoter regarding the revisions required.

SWQ	Question to:	Question:	HE Comments
	Anglian Water (AW), Cadent	Parts 3 (PLA) and 7 (TC&HE). i. Would the Applicant and other parties state their positions regarding the protective provisions? 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; 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 <i>Powers of acquisition and possession of land</i> of the Order?	<p>The dDCO should make it mandatory for the Applicant to enter into an agreement with HE (as explained further in our comments to 2.18.4 and in HE's deadline 3 Response). If so, it will not be necessary to deal with some of the issues required by HE to be dealt with in the protective provisions; for example security for the works such as a bond and the need to pay a commuted sum for on-going maintenance of the SRN works. If an agreement is not mandatory, HE's position is be that these provisions are still required.</p> <p>The quantum of the works proposed by the Applicant are such that HE's short form highways agreement is not appropriate and the protective provisions and/or Art 15 mandatory agreement should reflect the matters that HE ordinarily requires of promoters in its full highways (s278) agreement.</p>
2.8.49	Highways England (HE)	Unless agreement has been reached between the Applicant and HE, HE is requested to set out what specific changes it is seeking to the dDCO a week before the hearings scheduled	Highways England will seek to engage further with the Applicant and will respond as requested, but noting that more than one scenario might arise.

<b>SWQ Question to:</b>		<b>Question:</b>	<b>HE Comments</b>
		for the end of June 2018.	
2.8.50	Applicant	Further to the Applicant's Note on Protective Provisions for the Benefit of Highways England submitted at deadline 3 [REP3-022], why is a s278 agreement for works to the Asda roundabout (and any other works which may be needed pursuant to the Order) unacceptable to the Applicant?	
2.8.51	Highways England (HE)	Which other parts of the SRN is HE concerned about in relation to Tilbury 2, other than the Asda Roundabout and M25 J30?	Further to a meeting between HE and PoTLL on the 10 <sup>th</sup> May 2018, HE is able to advise that on the basis of clarity being provided by PoTLL regarding the predicted tonnages and volumes of freight; it is now content with the predicted trip generation for Tilbury2. Due to this outcome we are now only concerned with the impact of Tilbury2 at the Asda Roundabout and M25 J30.
<b>2.9.</b>	<b>Dredging and Navigation</b>		
2.9.1		No further questions at this stage.	

SWQ Question to:		Question:	HE Comments
2.10.	Engineering and Design		
2.10.1		No further questions at this stage.	
2.11.	Habitats Regulations Assessment		
2.11.1	Applicant	<p><i>Updated HRA at Deadline 4</i></p> <p>The Applicant is requested to include in its updated HRA report to be submitted at deadline 4:</p> <ul style="list-style-type: none"> <li>• the implications of the CJEU judgement;</li> <li>• whether habitat provision for lost functionally-linked habitat (ie saltmarsh and intertidal habitat) is relied on to reach the conclusions of the HRA;</li> <li>• updated screening matrices, and</li> <li>• where relevant, integrity matrices.</li> </ul>	
2.11.2	Applicant	<p><i>Habitat Creation Offsite.</i> What is the Applicant's response to the case law stated by the MMO at deadline 2 [REP2-012] that habitat creation offsite, prior to the proposed</p>	

SWQ Question to:		Question:	HE Comments
		works removing the protected habitat, is seen as compensation and not mitigation?	
2.11.3	Natural England	<i>Functionally-linked Land.</i> NE states in its deadline 3 submission [REP3-042] that case law establishes that functionally-linked land should receive equivalent protection. Would NE state the case law to which it is referring?	
<b>2.12.</b>	<b>Health</b>		
2.12.1		No further questions at this stage.	
<b>2.13.</b>	<b>Historic Environment</b>		
2.13.1	Applicant, Thurrock Council (TC)	<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	

SWQ	Question to:	Question:	HE Comments
		assessment ii. Would the Applicant and TC update the Examination on the status of their discussions?	
2.13.2	Applicant, Historic England (Hist E)	<p><i>A Separate SoCG.</i> In the SoCG between the Applicant and Hist E at deadline 3 [REP3-028], under matters agreed, the SoCG cites Tilbury Fort as a visitor attraction, which "will be secured under a separate SoCG".</p> i. Would the Applicant and Hist E state what is envisaged with this separate SoCG?	
2.13.3	Applicant, Historic England (Hist E)	<p><i>Significance.</i> In the SoCG between the Applicant and Hist E at deadline 3 [REP3-028], under matters not agreed, the SoCG states that the magnitude of impact and significance of effect are not agreed, and nor is it agreed that the assessment of impact has been undertaken with appropriate consideration of the future baseline where Tilbury B and its twin chimneys are no longer extant.</p> i. Would the Applicant and Hist E state	

SWQ Question to:		Question:	HE Comments
		whether these matters are now closed as not agreed?	
2.13.4	Applicant, English Heritage (EH)	<p><i>Mitigation and compensation measures.</i> In EH's submission at deadline 3 [REP3-039], EH presents a range of mitigation and compensation measures.</p> <p>i. Would the Applicant and EH update the Examination on how they see the s106 agreement being finalised given the latest draft?</p>	
2.13.5	Applicant, English Heritage (EH)	<p><i>Tilbury Fort.</i> In the SoCG between the Applicant and EH at deadline 3 [REP3-028], matters under discussion are the degree of impact of the Proposed Development on the setting, the visitor experience, residential letting, filming at Tilbury Fort, the potential impact on the commercial operation of Tilbury Fort, and whether the moats have been appropriately factored into the flood risk assessment.</p> <p>i. Would the Applicant and HE update the Examination on these matters?</p>	

SWQ Question to:		Question:	HE Comments
<b>2.14.</b>	<b>Planning Policy</b>		
2.14.1		No further questions at this stage.	
<b>2.15.</b>	<b>Landscape and Visual Impacts</b>		
2.15.1	Applicant, Thurrock Council (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>	
2.15.2	Applicant, Historic England (Hist E)	<p><i>Visual Impacts on Tilbury Fort.</i> In Hist E's submission at deadline 3 [REP3-044], Hist E states a number of points relating to the visual impact of the Proposed Development on Tilbury Fort.</p> <p>i. Would the Applicant and Hist E update</p>	

SWQ Question to:		Question:	HE Comments
		the Examination on the status of their discussions on these matters?	
<b>2.16.</b>	<b>Noise and Vibration</b>		
2.16.1	Gravesham Borough Council (GBC)	<p><i>Monitoring at Mark Lane.</i> The ExA notes that the Applicant agrees that further monitoring at Mark Lane (under Requirement 10) will be undertaken.</p> <p>i. Does GBC require any additional information at this stage, and if so what specifically?</p>	
2.16.2	Applicant	<p><i>Noise Sensitive Receptors.</i> The discrepancy has not been resolved. Table 17.37 in the ES names Kimberley House as NSR 2,3,4, and 5.</p> <p>i. Would the Applicant state whether this is a typographical error?</p> <p>ii. Are the names on Tables 17.38-40 correct?</p>	
2.16.3	Gravesham Borough Council (GBC)	<p><i>Adequacy of OMP.</i> Ref GBC responses to the ISH on 18 April 2018 [REP3-040], page 4 hierarchy of avoidance and mitigation, the second row refers to adding attenuators,</p>	

SWQ	Question to:	Question:	HE Comments
		<p>controlling speed of conveyors etc. These specific measures are not detailed in the Operations Management Plan (OMP).</p> <p>i. Is GBC suggesting that the OMP is inadequate and needs refining?</p>	
2.16.4	Applicant	<p><i>GBC concerns about sound between LOAEL and SOAEL. With regard to the GBC responses to the ISH on 18 April 2018, page 5, GBC cites the Noise Policy Statement for England (NPSE) and states: "In the tracked changes DCO published by the PoTLL (REP1-004), the PoTLL is only proposing that the mitigation package will be provided to any receptor above the SOAEL. GBC is concerned that this won't address the impacts on receptors who could be suffering impacts above between LOAEL (Lowest Observed Adverse Effect Level) but below the SOAEL (Significant Observed Adverse Effect Level).</i></p> <p><i>Changes in noise levels of less than 3 dBA are not perceptible under normal conditions whilst changes of 10dBA are equivalent to a doubling of loudness. GBC considers that LOAEL + 5dBA would be a more acceptable level".</i></p>	

SWQ Question to:		Question:	HE Comments
		i. What is the Applicant's response to this proposal?	
2.16.5	Applicant, Gravesham Borough Council (GBC)	<p><i>Criteria for Noise Mitigation.</i> Regarding discussions between the Applicant and GBC, GBC responses to the ISH on 18 April 2018, question 16.1 (iii) [REP3-040] on which criteria to use for noise mitigation:</p> <ul style="list-style-type: none"> <li>i. If the requirements of the NPSE are to be used can the parties suggest a revised condition which would satisfy GBC's concerns?</li> <li>ii. The DCO does not specify criteria for defining significant effects. Can the parties agree a criterion to include in the DCO requirement that will ensure these criteria are used?</li> </ul>	
2.16.6	Applicant	<p><i>Railway Movements.</i> With regard to the number of railway movements that would be required to meet the LOAEL:</p> <ul style="list-style-type: none"> <li>i. Would the Applicant please confirm this number?</li> <li>ii. Would the Applicant please confirm that these are higher than the deadline 1 example calculation assumption of</li> </ul>	

SWQ Question to:		Question:	HE Comments
		double the number of passenger and freight trains given in the Response to the ExA's First Written Questions [REP1-016]?	
2.16.7	Thurrock Council (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> <ul style="list-style-type: none"> <li>i. Would TC state whether this should be signed off, or is TC content with the dDCO approach?</li> </ul>	
2.16.8	Applicant, Marine Management Organisation (MMO)	<p><i>Underwater noise assessment.</i> With regard to the Applicant's written summary of case at the ISH of 18 April 2018 [REP3-029], Appendix 1 (update to underwater noise assessment in Appendix 17.A of the ES):</p> <ul style="list-style-type: none"> <li>i. Does the MMO have any comments on the changes?</li> <li>ii. Does the Applicant intend for the Appendix to form part of the ES?</li> <li>iii. If so, how does the Applicant intend to reflect this in terms of the certification</li> </ul>	

SWQ Question to:		Question:	HE Comments
		of documents within the dDCO?	
<b>2.17.</b>	<b>Socio-economic Effects</b>		
2.17.1	Applicant, Essex County Council (GBC)	<p><i>Skills and Employment Strategy.</i> In the SoCG between the Applicant and GBC at deadline 3 [REP3-028], the SoCG identifies the Skills and Employment Strategy as a document that is under discussion.</p> <p>ii. Would the Applicant and ECC update the Examination on the status of their discussions?</p>	
<b>2.18.</b>	<b>Traffic &amp; Transportation</b>		
2.18.1	Applicant, Thurrock Council (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</p>	

SWQ	Question to:	Question:	HE Comments
		<p>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. Would the Applicant and TC agree that the wording in the SoCG needs to be amended to reflect this circumstance?</p>	
2.18.2	Applicant, Thurrock Council (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 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>	<p>i. Further to a meeting between HE and PoTLL on the 10<sup>th</sup> May 2018 at which further clarification was provided relating to the projected tonnages and volumes of freight, HE sent an email to the applicant on the 11<sup>th</sup> May which stated that it agreed with the applicant that the trip generation within the Transport Assessment is robust. This will enable HE and the applicant to progress discussions on the impact of Tilbury2 at the Asda Roundabout and the level and type of mitigation that is required at this junction. Failing agreement on this HE is looking for the imposition of a Requirement to limit use of the proposed development so as not to materially exacerbate peak traffic on this junction.</p>
2.18.3	Applicant, Highways	<p><i>Strategic Road Network.</i> In the SoCG between the Applicant and HE at deadline 3 [REP3-</p>	<p>i. As per 2.18.2 above, further to a meeting between HE and PoTLL on the 10<sup>th</sup> May 2018</p>

SWQ	Question to:	Question:	HE Comments
	England (HE)	<p>028], under matters under discussion, the parties state that traffic generation, traffic modelling and its impact, mitigation on the strategic road network, and details in the dDCO are not yet agreed, and that ways of resolving the lack of agreement are under discussion between PoTLL and HE.</p> <p>i. Would the Applicant and HE update the Examination on the status of these discussions?</p>	<p>HE is able to confirm that the trip generation within the Transport Assessment is robust.</p> <p>HE and the applicant can now progress with discussions on the impact of Tilbury2 at the Asda Roundabout. This will include the traffic modelling underpinning the operational assessment and the level and type of mitigation that is required at this junction.</p> <p>HE is still concerned that information is insufficient to conclude that there is no likely severe impact on the M25 J30 and is willing to consider the Applicant's case for mitigation required due to Tilbury2, failing which HE is looking for the imposition of a Requirement to limit use of the proposed development so as not to materially exacerbate peak traffic on this junction.</p>
2.18.4	Applicant, Highways England (HE)	<p><i>Strategic Road Network – Overall Position.</i> HE's submission at deadline 3 [REP3-046] states:</p> <p>a. that discussions with the Applicant are not proceeding sufficiently quickly to ensure agreement by the end of the Examination;</p>	<p>ii)</p> <p>HE's approach to the content of the protective provisions will in part be informed by the extent to which Art 15 (regarding agreements between the Applicant and the street authorities) is made a mandatory requirement. In any event, HE's general and current practice is to require greater specification of the matters</p>

SWQ	Question to:	Question:	HE Comments
		<p>b. that there is a fundamental disagreement between HE and the Applicant in terms of how the works to the Strategic Road Network (SRN) should be carried out;</p> <p>c. that the dDCO should be amended to make it mandatory for the Applicant to enter into an agreement with HE prior to the commencement of works on the SRN;</p> <p>d. that the extent of powers sought by the Applicant to take temporary possession and for stopping up in relation to the works to be undertaken on the SRN are not justified.</p> <p>i. As a matter of urgency, would the Applicant give the Examination its response to these matters?</p> <p>ii. Re point c, would HE state why the draft protective provisions in its favour are not sufficient to satisfy this point?</p> <p>iii. Would HE inform the Examination of its response to the Applicant's Note on</p>	<p>that is expects to be addressed between the Applicant and HE as part of addressing the approval process under protective provisions. HE's approach is no different to a number of other third party statutory undertakers.</p> <p>The Applicant's current approach to draft protective provisions for HE is not to provide in a form that HE now seeks as a matter of best practice and which has been secured on East Midlands Gateway (EMG) and have been accepted as the starting point on the emerging Northampton Gateway and the West Midlands Strategic Rail freight interchange projects. The form proposed by the Applicant lacks specificity of the matters that HE expects to be addressed by the Applicant as reasonable conditions of the approval of works and entry in to the SRN and to ensure that HE can take possession of the works following completion.</p> <p>HE requires reasonable protection not just in respect of the approval of design of works to appropriate standards but the terms of entry, standard of the works undertaken, appropriate</p>

SWQ	Question to:	Question:	HE Comments
		<p>protective provisions for the Benefit of Highways England [REP3-022]?</p>	<p>terms for the handing back of works and sufficient protection for poor workmanship or failure to complete works. This is entirely standard. With the exception of provision of a bond and commuted sum contribution (see point iii below), the Applicant is yet to explain which of the balance of matters that HE requires to be specified in its current form of protective provisions (see EMG example) that the Applicant would challenge as not reasonable if imposed by HE under the more general form of provisions proposed by the Applicant.</p> <p>The Applicant's status as statutory undertaker of the Port (and therefore its functions) has no material relevance to the highway matters that HE expects it or its contractors to engage with it in respect of works on the SRN.</p> <p>The temporary stopping up powers and temporary possession powers in the current version of the dDCO are widely drafted and could be open to abuse as HE will have no ability to stipulate how these works are</p>

SWQ	Question to:	Question:	HE Comments
			<p>conducted and monitored.</p> <p>The protective provisions as currently drafted provide no certainty in respect of implementation once highway works are commenced. The prohibition on occupation of the proposed development pending completion of highway works (in draft Requirement) is an incentive for the Applicant but is not a warranty and leaves HE with the risk of the SRN not being made whole at a point after works have been commenced. This is not simply a matter of whether the Applicant has sufficient net worth but has an ultimate requirement or liability to HE to ensure that HE can ensure that the SRN can be made and kept safe in line with its statutory functions.</p> <p>This level of control is required, entirely standard practice and currently the current approval mechanism in protective provisions is too uncertain in this regard and carries no means of guaranteed financial performance. A mandatory agreement (pursuant to Article 15) would provide this control.</p>

SWQ	Question to:	Question:	HE Comments
			<p>Any disputes as to what is reasonable for HE to impose by way of conditions to any approval of plans would otherwise be left to be determined by arbitration, leaving a number of detailed matters open to uncertainty.</p> <p>A mandatory agreement under Art 15 will require these matters to be addressed at detailed design stage providing the appropriate levels of control and certainty for the parties,</p> <p>iii)</p> <p>The Applicant's main complaint appears to be that on another occasion (M1 Junction 10A); HE has adopted a less prescriptive approach and seeks to make its case based on proportionality.</p> <p>It is correct that the highways works that were authorised by the EMG DCO were on a substantially larger scale than those proposed in the Tilbury 2 DCO application. Notwithstanding this, Highways England</p>

<b>SWQ</b>	<b>Question to:</b>	<b>Question:</b>	<b>HE Comments</b>
			<p>consider that the protective provisions in EMG DCO are the correct starting point for the Tilbury 2 protective provisions for the following reasons:</p> <ul style="list-style-type: none"><li>• The EMG DCO protective provisions reflect a more recent iteration of Highways England's approach to protective provisions than those adopted for the M1 Junction 10A DCO. The use of the DCO regime to authorise works to be carried out on our network is still in its relatively early days and Highways England consider it is entitled to develop its approach in response to issues that have arisen during the carrying out of works authorised by DCOs. The EMG DCO provisions have now themselves been amended in response to issues that arose during the carrying out of the highways works authorised by the EMG DCO.</li><li>• The promoter for the M1 junction 10A DCO was Luton Borough Council. Highways England follow a different contractual approach when interfacing</li></ul>

SWQ	Question to:	Question:	HE Comments
			<p>with a highways authority than it does when highways works are proposed by developers, and would usually enter into an agreement under section 6 of the Highways Act, which is a considerably simpler and less stringent agreement than the section 278 agreement that it requires when highways works are required by developers. Notwithstanding the statutory undertaker status of the port authority, the function of the port authority is not related to the operation and maintenance of streets, and therefore the same approach cannot be justified.</p> <ul style="list-style-type: none"> <li>• It should also be noted that the protective provisions set out in the M1 Junction 10A DCO were not the sole control over the highways works consented under the DCO; a side agreement was also entered into reflecting the usual requirements that Highways England would impose in a section 6 agreement.</li> <li>• The approach followed by the EMG DCO is to place the requirements and</li> </ul>

SWQ	Question to:	Question:	HE Comments
			<p>protections contained in its standard form section 278 agreement in the protective provisions. All developers requiring works to the strategic roads network (where the works are not authorised by a DCO) are required to enter into a section 278 agreement with HE. Where the value of proposed works is in excess of £25,000, a short form agreement may be entered into. Above that level, HE adopts the same approach regardless of the size and the value of the works, as whatever the size of the works, the same mechanisms should apply to ensure the works are carried out in accordance with standards, in a safe manner and at no cost to the public purse. It is therefore irrelevant that the works proposed are of a smaller scale than those proposed in the EMG project; the works would, if consented under the Town and Country Planning Act, require the full form section 278 agreement and Highways England therefore feel they are justified in requesting a similar set of protective provisions.</p>

SWQ	Question to:	Question:	HE Comments
			<p>It should also be noted that under the DIRFT III DCO section 278 agreements were utilized to bring forward the highways works elements. There is therefore also precedent for this route to be followed if agreement cannot be reached on the protective provisions.</p> <p>HE notes the comments regarding pre-approval of the detailed design works at paragraph 3.3 of the Applicant's note on protective provisions [REP3-022]. However, as explained in response above (point ii) this does not give HE any certain protection or control with regards to programming, implementation of the works, and certification/returning the finished works in the SRN to HE.</p> <p>Regarding the comment in respect of a bond (first bullet point of paragraph 3.11 in the Applicant's note on protective provisions [REP3-022]) the Applicant fails to understand that the issue is certainty of performance, not simply the net worth of the Applicant. Highways England's position is that it should not be</p>

SWQ	Question to:	Question:	HE Comments
			<p>exposed to a higher level of risk under a DCO than it would accept under any other proposal by a third party to undertake works to the SRN.</p> <p>Regarding the Applicant's comment in respect of a commuted sum contribution towards maintenance (paragraph 3.13 of Applicant's note on protective provisions [REP3-022]), the Applicant fails to recognise that this is a standard requirement on promoters carrying out highway improvements on the SRN where there has been a net addition of assets to the network. To clarify the process, the DBFO contractor will estimate the costs of additional maintenance for the next 60 years in respect of any new highways assets that needs to be maintained. The promoter has not given any argument as to why it should be Highways England, and therefore the taxpayer, that should cover these costs should they arise. If the works do not in fact give rise to a commuted lump sum it will not be requested.</p> <p>The requirement for maintenance of the works for 12 months (see paragraph 3.14 [REP3-022]) is not the purpose of the contribution and</p>

SWQ	Question to:	Question:	HE Comments
			<p>is similarly a standard approach under any HE highways agreement.</p> <p>If the Applicant accepts that such a sum can be properly secured under the Applicant's preferred (less particularised) form of protective provisions (paragraph 3.15 [REP3-022]) as a reasonable condition of HE's approval of works, it is not clear on what grounds the Applicant continues to resist the certainty that HE requires in its required form of protective provisions.</p>
2.18.5	Applicant, Highways England (HE)	<p><i>Strategic Road Network – Transport Assessment.</i> In HE's submission at deadline 3 [REP3-046], HE states that it still has concerns in relation to the SRN, particularly the Asda roundabout (Work No. 11) and M25 J30, but also potentially at other points. HE further states that <i>"the onus is on the Applicant to bring forward sufficient information and modelling and propose appropriate mitigation. If the Applicant has</i></p>	<p>i. As per 2.18.2 and 2.18.3 above, further to a meeting between HE and the applicant on the 10<sup>th</sup> May 2018 HE now has agreed with the applicant that the trip generation within the Transport Assessment is robust.</p> <p>HE and the applicant are now able to progress discussions on the impact of Tilbury 2 at the Asda Roundabout and M25 J30 and the level and type of mitigation that is required at these junctions.</p>

SWQ	Question to:	Question:	HE Comments
		<p><i>insufficient time to do this within the examination period then HE will continue to seek refusal of the Application". HE also cites concerns regarding the trip generation calculations, the resultant traffic modelling and its impact, and the necessary mitigation.</i></p> <p>i. Would the Applicant provide its response to the Examination, clearly stating its proposed route for resolving HE's concerns, including a timetable allowing HE sufficient review time?</p>	
2.18.6	Applicant, Highways England (HE)	<p><i>Strategic Road Network – Roles and Responsibilities.</i> In HE's submission at deadline 3 [REP3-046], HE states its current position with regard to securing its SRN interests.</p> <p>i. Would the Applicant update the Examination on its current position, and matters yet to be agreed?</p>	<p><i>No response is provided as the question is directed to the Applicant.</i></p>
2.18.7	Applicant, Highways England (HE), Thurrock Council (TC)	<p><i>Asda Roundabout.</i> At deadline 3, the Applicant submitted a document "Asda Roundabout DCO Powers and Potential Scope of Works" [REP3-021].</p>	<p>i. HE considers that the current mitigation proposals do not sufficiently mitigate against a scheme the size of Tilbury2, particularly for non-motorised users of this junction.</p>

SWQ Question to:		Question:	HE Comments
		<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>HE is currently seeking a reduction of the 70mph speed limit to 40mph and improvements to the existing crossing facilities at the Asda Roundabout, particularly on the A1089 arms where Tilbury2 has the greatest impact due to the increased HGV flows.</p> <p>Depending on the outcome of further traffic assessment work by the Applicant, additional capacity over and above what is currently proposed by the Applicant may be required at Asda Roundabout.</p> <p>The layouts shown in [REP3-021] are illustrative and do not appear to have been subject to thorough engineering and traffic assessment. There can be no reliance that workable designs can be incorporated within the highway boundary. Nor, on Highways England's understanding do the layouts constitute alternative mitigation proposals from the Applicant.</p>
2.18.8	Applicant, Network Rail (NR)	<i>Rail</i> . In the SoCG between the Applicant and NR at deadline 3 [REP3-028], under matters	

SWQ	Question to:	Question:	HE Comments
		<p>agreed in principle, the parties state a number of areas that need to be agreed. NR's submission at deadline 3 [REP3-035] also relates.</p> <p>i. Would the Applicant and NR update the Examination on the status of their discussions on the matters agreed in principle?</p>	
2.18.9	Applicant, Kent County Council (KCC)	<p><i>KCC Local Road Network.</i> In the SoCG between the Applicant and KCC at deadline 3 [REP3-028], under matters under discussion, the SoCG states that KCC considers that there will be an impact on the highway network and requests that further information is provided as to the forecast number of HGVs on the KCC highway network. Also, the Applicant awaits a response from KCC on the additional information that it has provided regarding the availability of train paths.</p> <p>i. Would the Applicant and KCC update the Examination on the status of their discussions on these matters?</p>	
2.18.10	Applicant, Amazon	<p><i>Amazon.</i> In Amazon's submission at deadline 3 [REP3-045], Amazon concludes that</p>	

SWQ Question to:		Question:	HE Comments
		<p>insufficient traffic impact information for the Asda roundabout is available to allow a comprehensive transport review to take place. In particular, Amazon states that it is not yet satisfied that the permitted level of Amazon traffic has been fully taken into consideration, especially in the morning peak hour of 07.00-08.00 and the evening peak hour of 18.00-19.00.</p> <p>i. Would the Applicant and Amazon update the Examination on these matters?</p>	
<b>2.19.</b>	<b>Water Quality, Flood Risk &amp; Water Framework Directive</b>		
2.19.1	Applicant	<i>Fluvial flood risk.</i> What is the Applicant's assessment of the consequences of Tilbury 2 for fluvial flood risk?	
2.19.2	Applicant	<i>Flood risk levels.</i> Would the Applicant state whether the levels contained in the Flood Risk Assessment Addendum [REP1-014] are finished floor levels or site levels?	

SWQ		Question to:	Question:	HE Comments
2.19.3	Applicant		<i>East Dock Sewer.</i> Given the condition and capacity of the East Dock Sewer explained in the Environment Agency's deadline 3 submission [REP3-034], what are the Applicant's proposals to remedy these constraints?	