

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')

Issue Specific Hearing on Ecology, Habitats Regulations Assessment, and Traffic and Transportation

28 June 2018, following hearing on draft Development Consent Order and no earlier than 11:30 am

Thurrock Hotel, Ship Lane, Aveley, RM19 1YN

Issued on 19 June 2018

Agenda

1. Welcome, introductions, purpose and arrangements for this Issue Specific Hearing.
2. Opportunity for the host Unitary Council and relevant Interested Parties and Affected Persons to comment on their main concerns regarding the ecology, habitats regulations assessment, and traffic and transportation,.
3. The matters in Annex A, which contains specific questions from the Examining Authority (ExA) Panel. The topics will include, but not necessarily be limited to:
 - biodiversity, ecology and natural environment – terrestrial and marine ecology;
 - Habitats Regulations Assessment;

- traffic and transportation.
4. Action points arising from this Issue Specific Hearing.
 5. Any other business.

The Applicant, all Interested Parties, and Affected Persons are invited to attend. In particular, the Panel would welcome the attendance and participation of the Environment Agency, Highways England, Marine Management Organisation, Natural England, RWE Generation UK Plc and Thurrock Council.

Questions in Annex A

The questions in Annex A indicate to which party or parties each item is directed. The Panel would be grateful if all named parties would prepare themselves to respond to all agenda items directed to them or indicate that the agenda item is not relevant to them for a reason. This does not prevent a response being provided to an agenda item by a party to which it is not directed, should the agenda item be relevant to their interests.

Each agenda item has a unique reference number in which the first part of the number indicates the hearing round (round 3), the second part indicates the topic (which for consistency follows the topic numbers from the first written questions [PD-007]), and the third part is the question number. So, for example, the second question on the Habitats Regulations Assessment is 3.11.2.

When you follow-up your oral response to an agenda item at the hearings by your subsequent written response, please start your response by quoting the unique reference number.

If you are responding to a small number of agenda items, responses in a letter will suffice. If you are responding to a larger number of agenda items, it will assist the Panel if you use a table based on the one in Annex A 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 and include 'Tilbury2 ExA Hearings Round 3 Agendas' in the subject line of your email.

Written responses are due by Deadline 5 – Friday 6 July 2018

The Examination Library

In the questions in Annex A, references in square brackets (for example [REP4-020]) are to documents catalogued in the Examination Library, which 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>

The Examination Library is being updated as the Examination progresses.

Abbreviations used

AEOI	Adverse Effect On Integrity	SPA	Special Protection Area
BMAP	Bird Monitoring and Action Plan	SWQ	Second Written Questions
DCO	Development Consent Order	TC	Thurrock Council
EA	Environment Agency	TEC	Tilbury Energy Centre
EMCP	Environmental Mitigation and Compensation Plan		
ExA	Examining Authority		
HE	Highways England		
HRA	Habitats Regulations Assessment		
MMO	Marine Management Organisation		
NE	Natural England		
RWE	RWE Generation UK plc		

Annex A: Specific questions from the Examining Authority (ExA) Panel (relates to agenda item 3)

Biodiversity, Ecology and Natural Environment – Terrestrial and Marine Ecology

3.2.1.	Natural England (NE), Marine Management Organisation (MMO), Environment Agency (EA)	<p><i>Environmental Mitigation and Compensation Plan (EMCP)</i>. With reference to the Applicant's updated version of the EMCP, requested by ExA to be submitted by 20 June 2018 ...</p> <p>i. What are the views of NE, MMO and EA in particular on the updated EMCP?</p> <p><i>Note: since the agendas for the hearings will have been issued before the updated EMCP is received, this question does not apply if it is not received.</i></p>
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Habitats Regulations Assessment (HRA)

3.11.1.	Natural England (NE)	Overall, what are NE's views on the conclusions of the HRA Stage 2 Report [REP4-018] that the proposed Tilbury2 project will not adversely affect the integrity of the Thames Estuary and Marshes Special Protection Area (SPA)/Ramsar site, alone or in combination with other plans or projects?
3.11.2.	Natural England (NE)	Is NE content with the explanation of zone of influence of disturbance to birds set out in paragraph 4.1.3 of the HRA Stage 2 Report [REP4-018]?
3.11.3.	Applicant	Table 3 of the HRA Stage 2 Report [REP4-018] refers to a maximum extent of

		<p>impacts from air quality changes to be '250m from navigable channel'.</p> <p>Would the Applicant state how this fits with Table 1, which states that the maximum extent of the air quality study areas for ecological receptors is 1km?</p>
3.11.4.	Applicant	<p>The HRA Stage 2 Report [REP4-018] includes as potential impacts in paragraphs 5.1.9 to 5.1.11 the specific amendments raised by NE at Deadline 1, such as invasive non-native species, construction and operational waste and pollutants. However, construction and operational waste pollutants do not appear to have been considered within the screening and integrity matrices in Appendices 5 and 11.</p> <p>In the light of this, would the Applicant state how construction and operational waste pollutants have been assessed within the HRA Stage 2 Report?</p>
3.11.5.	Natural England (NE)	<p>The HRA Stage 2 Report [REP4-018] includes a revised assessment of air quality impacts on designated ecological sites (Appendix 7). This explains that the original assessment (Appendix 6 of the HRA Stage 1 Report [APP-060]) underestimated the concentrations and deposition rates as a result of the model setup. It confirms that the updated numbers, while larger than presented in the 2017 report, are still extremely small and so do not materially change the conclusions of the HRA.</p> <p>Is NE content with the revised air quality assessment?</p>
3.11.6.	Natural England (NE)	<p>Paragraph 8.3.2 [REP4-018] sets out an intention to regularly monitor disturbance during the construction phase through a Bird Monitoring and Action Plan (BMAP). It is noted that this is not required for mitigation nor is relied upon to reach a conclusion of no adverse effect on integrity (AEOI).</p> <p>Does NE agree with this conclusion?</p>

3.11.7.	Applicant	<p>In Appendix 5 of the HRA Stage 2 Report [REP4-018] in relation to the Ramsar site, it appears there is an error in the use of footnotes (i) and (j):</p> <ul style="list-style-type: none"> • The screening matrix excludes a likely significant effect for 'Damage or loss (non-bird species)' for all features of the site, referring to footnote (i) which concludes 'not applicable'. However, the table of potential effects preceding the screening matrices suggests this effect is only applicable to Criterion 2; • Should footnote (j) apply to 'Damage or loss (non-bird species)' in the screening matrix in Appendix 5 of the HRA Stage 2 Report, and that as a consequence these effects should be screened in? • In Appendix 11 of the HRA Stage 2 Report the potential for 'Damage or loss (non-bird species)' has been screened in to the integrity matrix for all features of the Ramsar site. <p>Would the Applicant review the screening matrix in Appendix 5 of the HRA Stage 2 Report and confirm to which elements footnotes (i) and (j) should apply?</p>
3.11.8.	Applicant	<p>Can the Applicant clarify whether the direct loss of functionally-linked habitat is screened in for both the SPA and the Ramsar site in Appendix 5 of the HRA Stage 2 Report [REP4-018]?</p> <p>If so, would there be an adverse effect on integrity?</p>
3.11.9.	Applicant	<p>Footnote (j) of the screening matrices of Appendix 5 of the HRA Stage 2 Report [REP4-018] refers to compensation of Thames Estuary grazing marsh habitats and associated ditch systems.</p> <p>Can the Applicant explain how this is relevant to the direct loss of any functionally-linked land which has previously been stated to comprise intertidal mudflats and saltmarsh?</p>

3.11.10.	Applicant	<p>The potential effects table in Appendix 5 of the HRA Stage 2 Report [REP4-018] states that disturbance from shipping to qualifying features within the SPA/Ramsar site will be considered under the headings of 'Disturbance (within SPA)' and 'Disturbance (within Ramsar site)'. Footnote (a) does not provide any justification for screening out a likely significant effect of disturbance from shipping during construction.</p> <p>Please can the Applicant provide justification for screening out this matter?</p>
3.11.11.	Applicant	<p>The potential effects table in Appendix 5 of the HRA Stage 2 Report [REP4-018] states that disturbance from human movement and activity within the SPA/Ramsar site will be considered under the headings of 'Disturbance (within SPA)' and 'Disturbance (within Ramsar site)'. Footnote (b) does not provide any justification for screening out a likely significant effect of disturbance during operation.</p> <p>Please can the Applicant provide justification for screening out this matter?</p>
3.11.12.	Applicant	<p>Footnote (f) of the screening matrices in Appendix 5 of the HRA Stage 2 Report [REP4-018] screens out a likely significant effect to birds outside the SPA/Ramsar site from operational disturbance. However, birds outside the SPA/Ramsar site (ie using functionally-linked land), could potentially be closer to the application site and therefore closer to sources of light, noise, human movement and activity.</p> <p>As such, can the Applicant justify why disturbance from these potential impacts has been screened out?</p>
3.11.13.	Applicant	<p>Footnote (g) of the screening matrices in Appendix 5 of the HRA Stage 2 Report [REP4-018] implies a very low risk to water and/or sediment quality. However, the</p>

		<p>potential for damage to functionally-linked land has been screened in. It is unclear why this is the case.</p> <p>Can the Applicant please clarify?</p>
3.11.14.	Applicant	<p>The potential effects table in Appendix 5 of the HRA Stage 2 Report [REP4-018] details the potential effects on Ramsar Criterion 2 plant/invertebrate species to be considered as 'Damage or loss (non-bird Ramsar species)'. As noted above, it is assumed that footnote (j) is applicable to this feature. Footnote (j) does not refer to invasive non-native species, water and sediment quality or sediment circulation and deposition pattern. However, these matters are included in the potential effects table preceding the integrity matrices in Appendix 11 of the HRA Stage 2 Report.</p> <p>Please can the Applicant confirm the basis upon which these matters have been screened in?</p>
3.11.15.	Applicant	<p>Footnote (j) in Appendix 5 of the HRA Stage 2 Report [REP4-018] infers that a likely significant effect for habitat loss has been excluded. However, this is identified in the table of potential effects in Appendix 11 of the HRA Stage 2, yet it is then not referred to in footnote (b) to the integrity matrices.</p> <ol style="list-style-type: none"> i. Can the Applicant clarify whether habitat loss for Criterion 2 species should be screened in? ii. If so, can the Applicant provide a justified conclusion for the Stage 2 assessment?
3.11.16.	Applicant	<p>Footnote (k) in Appendix 5 of the HRA Stage 2 Report [REP4-018] identifies a potential likely significant effect for additive risks from invasive non-native species. This does not appear to have been addressed in the integrity matrices in Appendix</p>

		<p>11. Can the Applicant confirm whether there would be an AEOI to the SPA/Ramsar site?</p>
3.11.17.	Applicant	<p>In relation to habitat damage from air quality impacts, footnote (g) in Appendix 5 of the HRA Stage 2 Report [REP4-018] summarises the air quality assessment and appears to conclude no likely significant effects for habitats within the SPA/Ramsar site. However, this impact is subsequently screened in to the integrity matrices in Appendix 11 of the HRA Stage 2 Report. No additional information is then provided to support a conclusion of no adverse effect on integrity.</p> <p>Can the Applicant explain why it has therefore been screened in?</p>
3.11.18.	Applicant	<p>The table identifying the potential adverse effects considered within the integrity matrices in Appendix 11 of the HRA Stage 2 Report [REP4-018] identifies noise, lighting, human movement and activity as potential disturbance to bird species using functionally-linked land. Footnote (a) does not explicitly address all of these disturbance effects; rather, conclusions are drawn in relation to 'disturbance' in the round and at a high level with limited technical justification.</p> <p>Can the Applicant justify these conclusions for each type of disturbance effect?</p>
3.11.19.	Applicant	<p>The HRA Stage 2 Report [REP4-018] screening matrices (Appendix 5, footnote (k)) and integrity matrices (Appendix 11, footnote (c)) both include consideration of in-combination effects. However, these are not covered within the tables which precede the matrices.</p> <p>How have in-combination effects have been considered in the potential effects tables in Appendices 5 and 11 of the HRA Stage 2 Report?</p>

3.11.20.	Applicant	<p>Paragraph 6.2.3 of the HRA Stage 2 Report [REP4-018] suggests that the following potential impacts inter alia from the Tilbury Energy Centre (TEC) may give rise to in-combination effects:</p> <ul style="list-style-type: none"> • potential temporary loss of functionally linked habitat (paragraph 6.2.9); • impacts on functionally-linked habitat including removal of benthos, release of chemicals and thermal plume (paragraphs 6.2.10). <p>Can the Applicant state whether there would be an adverse effect on integrity (AEOI) resulting from these potential in-combination effects?</p>
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Traffic and Transportation

3.18.1	Applicant, Highways England (HE)	<p><i>Towards Reaching Agreement on Strategic Road Network (SRN) Issues by the end of the Examination.</i> With reference to the Applicant's and HE's responses at deadline 4 [REP4-020, REP4-002] to ExA's SWQs [PD-010], HE's General Position from page 3, and the Applicant's response to Q2.18.4 ...</p> <ol style="list-style-type: none"> i. What is the Applicant's response to HE's overall position on reaching agreement by the end of the Examination? ii. Would the Applicant and HE update the Examination on these matters, in particular: <ol style="list-style-type: none"> a) Reaching agreement on the dDCO? b) Reaching agreement on the M25 J30? c) Reaching agreement on the Asda roundabout?
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		d) Limiting the traffic entering and leaving the Tilbury2 site during peak periods?
3.18.2	Applicant, Highways England (HE), Thurrock Council (TC)	<p><i>Asda Roundabout.</i> With reference to Applicant's, HE's and TC's responses at deadline 4 [PEP4-020, REP4-002, REP4-005] to ExA's SWOs [PD-010], Q2.18.2, 2.18.3, 2.18.7 and 2.18.10, would the Applicant and HE, as well as TC where relevant, update the Examination on the progress of their discussions on the impact of the Proposed Development on the Asda roundabout, specifically with regard to ...</p> <ul style="list-style-type: none"> i. The traffic modelling? ii. Appropriate treatment of Amazon traffic at the roundabout during peak periods? iii. Mitigation proposals, including: <ul style="list-style-type: none"> a) The robustness of the engineering design? b) Provisions for non-motorised users? c) HE's proposal for a reduced speed limit? d) HE's proposal for a possible DCO requirement limiting the use of the Tilbury2 site, if authorised, so as not to materially exacerbate peak traffic on this junction?
3.18.3	Applicant, Highways England (HE)	<p><i>Legal Framework.</i> With reference to the Applicant's and HE's responses at deadline 4 [REP4-020, REP4-002] to ExA's SWOs [PD-010], Q2.18.4, the Applicant provides a timetable and structure for reaching agreement. HE states what it sees to be the necessary legal framework governing the relationship between HE and the Applicant, which HE asserts to be best practice and widely used elsewhere, and which HE sees to be essential for it to be able to undertake its role as statutory authority for the strategic road network ...</p>

		<p>i. Would the Applicant and HE update the Examination on the progress of their discussions on these matters, clearly highlighting matters yet to be agreed and matters not agreed?</p>
3.18.4	Applicant, Highways England (HE)	<p><i>M25 J30.</i> With reference to the Applicant's, HE's and Essex County Council (ECC)'s responses at deadline 4 [REP4-020, REP4-002, REP4-015] to ExA's SWQs [PD-010], Q2.18.3, 2.18.4 and 2.18.5, the Applicant states its case regarding the M25 J30. HE states that it is still concerned that information is insufficient to conclude that there is no likely severe impact on the M25 J30, but is willing to consider the Applicant's case for mitigation required due to Tilbury2, failing which HE is looking for the imposition of a dDCO Requirement to limit use of the Proposed Development so as not to materially exacerbate peak traffic on this junction. ECC states that it has concerns over progress on the impact of the Proposed Development on M25 J30 ...</p> <p>i. Would the Applicant and HE update the Examination on these matters?</p>
3.18.5	Applicant	<p><i>Rail.</i> With reference to the Applicant's and Essex County Council's (ECC)'s responses at deadline 4 [REP4-020, REP4-015] to ExA's SWQs [PD-010], Q2.18.8 ...</p> <p>i. Would the Applicant update the Examination by stating its response to ECC's request for an update on matters agreed in principle between the Applicant and Network Rail?</p>
3.18.6	Applicant, RWE Generation UK plc (RWE)	<p><i>Fort Road Overbridge.</i> With reference to RWE's response at deadline 4 [REP4-004] to ExA's SWQs [PD-010], paragraphs 2.1-2.2, citing concerns over the impact of the height restriction of the overbridge at Fort Road on RWE's ability to transport equipment and material to the Tilbury Energy Centre (TEC) site ...</p> <p>i. Would the Applicant and RWE update the Examination on this matter?</p>

3.18.7	Applicant, RWE Generation UK plc (RWE)	<i>Rail Spur</i> . With reference to RWE's response at deadline 4 [REP4-004] to ExA's SWOs [PD-010], paragraphs 2.3, citing concerns over the impact of the proposed rail spur on RWE's access to the TEC site ... i. Would the Applicant and RWE update the Examination on this matter?