

**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')**

DCO REFERENCE: TR030003

POSITION SUMMARY AFTER THE SECOND ISSUE SPECIFIC HEARINGS

Representation on behalf of The English Heritage Trust

July 2018



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1.0 INTRODUCTION

- 1.1 The English Heritage Trust is licensed to manage Tilbury Fort (“the Fort”) as part of the National Heritage Collection by the Historic Monuments & Buildings Commission for England.
- 1.2 Carter Jonas LLP acts on behalf of the English Heritage Trust (English Heritage).
- 1.3 During the second Issue Specific Hearing (ISH) sessions English Heritage made oral representations which expanded upon the written comments submitted during the Development Consent Order (DCO) process. English Heritage was involved in debate about the scale and nature of the impacts of the proposal, and appropriate mitigation and compensation.
- 1.4 This submission represents a summary of English Heritage’s position as a result of the various debates had during the DCO process, both written and oral. English Heritage reaffirms its position that the harm to the Fort – a Scheduled Monument – is greater than that identified by the applicants and that the residual effects cannot be fully mitigated. As such it is reasonable and proportionate to seek further compensation and the package of proposals that has been put forward are directly related to the proposal because they are designed to maintain good access to the Fort, and to better reveal its significance and setting.
- 1.5 In English Heritage’s submission in March 2018 (in response to the Inspector’s First Written Questions) deficiencies in the Environmental Statement (ES) were set out, and as a result demonstrated how the scale of effect on the Fort has been under estimated. Also explained in English Heritage’s March 2018 statement was the need for a balancing exercise between the harm to the Fort and the public benefit of the proposals. English Heritage’s suggested conclusion to the balancing exercise (that will ultimately be made by the examining authority) is that the level of harm results in the need for additional mitigation and compensation to be included within the scheme including through planning obligations. In later submissions to the hearings – in April 2018 – English Heritage reiterated how its position is supported by policy, both in the National Policy Statement for Ports (NPSP) and also in the National Planning Policy Framework (NPPF). Also in the April 2018 statement English Heritage set out which elements of the package of necessary mitigation and compensation measures could be identified as each. And finally in its submission statement in May 2018, English Heritage explained how the effect on the setting of the Fort and its commercial operation were not mutually exclusive.
- 1.6 English Heritage still maintains the principle of the arguments set out in previous statements and has heard nothing during the hearing sessions, or in discussion with the applicant, to persuade it otherwise.

2.0 STATEMENT OF COMMON GROUND

- 2.1 English Heritage and the applicant have reached the conclusion of discussions relating to the Statement of Common Ground (SOCG). The SOCG is “signed off” as agreed on the principle of a S106 Heritage contribution, but ‘not agreed’ on a number of matters, including the scale of the effect on the setting of the Fort.

3.0 THE BENEFIT AND HARM OF THE PROPOSAL

- 3.1 English Heritage recognise the importance of port growth to the UK (and local) economy and hence is not objecting to the proposals. As explained in both the English Heritage submissions of March and April 2018, this economic importance however, is not, both in policy and moral terms, at the expense of sustainable development and in particular to the conservation of important heritage assets, their setting and optimum viable use.
- 3.2 Historic England and English Heritage are two very closely linked organisations. It would be perverse to consider the concerns of each as separate matters when considering the Fort, its

heritage importance. Therefore, the shared opinion is that the impacts of the proposal are severe and will have a radical and harmful effect on the setting of a Scheduled Monument.

- 3.3 English Heritage and Historic England's overall argument is that the level of harm to the setting of the Fort is greater than that identified by the applicant. Reasonable attempts have been made by the applicant to mitigate the adverse impact of the scheme but this does not, and cannot, reduce the overall residual harm to the setting of the Fort. We agree that the design (appropriate colour palette), active travel plan, and interpretive signage are all necessary to include in the proposals but these will not balance the harm caused to the Fort, therefore it is reasonable to seek further compensation for this loss of setting.
- 3.4 English Heritage has openly recognised that the setting of the Fort has become somewhat industrial. However, there is a remaining or 'residual' impact predicted by the development it also reasonable to seek compensation in addition to mitigation for. The effect on the setting of the Fort, is an effect on:
- Its heritage significance;
 - people's understanding of the site;
 - its tourist value;
 - the amenity of its residents; and
 - the value of the site as a filming location.

Each of these elements needs, therefore, to be considered for mitigation and compensation. English Heritage is a registered charity and it does not seek to make profit for profit's sake - money raised at Tilbury Fort is invested in the maintenance of the heritage asset and as such if money is lost from any of the mentioned activities that will directly affect its future viability.

- 3.5 English Heritage note that the applicant has assessed a level of effect on the setting of the Fort and agreed to an obligation to pay for signage and the resurfacing of the road to the Watergate. If the Inspectors find that the effect to the setting of the Fort is greater than that assessed by the applicant, English Heritage would expect the scale of the obligation to increase.
- 3.6 Given that the setting of the Fort will be permanently affected and there is no more that can be done to mitigate this, it is reasonable to consider all aspects of the setting and the significance of the Fort in order to compensate for the initial loss of significance. In short, when the wider significance of setting is lost, then better revealing another aspect of the localised significance in setting is an appropriate compensation.
- 3.7 Therefore, the significance of the De Gomme fortifications – the moats and landward defensive systems – to the setting, and people's understanding of these systems – by using the paths and particularly the bridges to cross them, is both proportional and related to the port scheme. The improvement of the moats and the bridges is a direct heritage enhancement and would better reveal their significance.
- 3.8 The northern car park is additional access improvement and would also help to reveal the significance of the landward fortifications should people enter the site from that direction. For clarity, English Heritage has stated that the car park reinstatement is only of value when couple with the bridges, however, the bridges can be of value without the car park.
- 3.9 The deliverability of the mitigation and compensation measures has been questioned by the applicant, particularly that consent might not be secured for each of the elements. However, the delivery of each of the elements in the mitigation and compensation package can be managed through the Standing Scheduled Monuments consent protocol between Historic England and English Heritage. Specifically in the protocol is the provision for "Tier Two" consents that allow for minor works, maintenance and/or repair, and Historic England have confirmed this would cover the impact of the proposed mitigation and compensation package.

4.0 FILMING

- 4.1 English Heritage does not seek to contest the 'filming evidence' presented by the applicant given that the loss of earning is not what we are pursuing but it is the loss of landscape and setting. Whilst the setting of the Fort could be managed through film making processes, as suggested during the second ISH, the very fact that the setting will be adversely effected is likely to influence decisions to choose certain filming locations.
- 4.2 However the filming report commissioned by PoTLL from Georgette Turner of 'On the QT' has been read by Kat Parker, the Head of Filming at English Heritage, and as such the English Heritage makes the following assessment:

Ms Turner is not known to us and she has not formally contacted us to ascertain any details regarding our use of the Fort as a filming location, though we did receive reports of someone attempting to gain access to take photographs of the site in relation to this examination.

The report details reasons why its author believes that Tilbury Fort is not a favourable filming location and details travel time and insurance rates amongst other reason as to why this is the case. English Heritage has provided the Examining Authority with the data which relates to filming revenue at the Fort over the past 10 years but it is most particularly of note since 2015. Certainly English Heritage's experience, and the actual income generated, does not correlate with the views listed in this report.

English Heritage has not detailed any forward projections beyond 2017/18 in the written responses – it is accepted that filming revenue can be hard to predict. However, English Heritage continues to receive interest in Tilbury from Location Managers and continue to prioritise the conversion of enquiries as a key revenue stream. The funds shown under "forecast" in – Appendix E of our written submission of March 2018 – were a projection for the financial year and in fact Tilbury Fort completed 2017/18 with a total of £402k from facilities income, of which £335k was generated through filming.

Item 4.6 of English Heritage's written submission of March 2018 lays out the reasons that Tilbury Fort is chosen by Location Managers as we understand them. We recognise the author of this report does not share these opinions, but we are not aware of Ms Turner working at the Fort previously or sharing her feedback with the Filming team. Anything that adversely effects these attractors – such as visually intrusive or noisy neighbouring activities – will make it harder for English Heritage to promote the location for filming and while it is true that there is technology available to film companies to remove 'distractions' these will still be an additional challenge noted by Location Managers.

- 4.3 The key issue remains that the historic setting of the Fort is the starting point for the generation of income across our revenue streams: Visitation, Membership, Secondary spend, Tenancy and Filming. English Heritage's position with regards to the impact of Tilbury2 on the setting of the Fort is clear from our written submissions and we do not consider the filming report gives any foundation for that position to be altered.

5.0 MOATS

- 5.1 English Heritage accept that the moat dredging might be more challenging in terms of biodiversity and environmental impacts assessment. However, should the need for further mitigation become apparent then English Heritage will work with all relevant parties to ensure its appropriate management and delivery.

6.0 CONCLUSION

- 6.1 English Heritage has written detailed submissions for this DCO process to explain its position, and how this is conceptually and legislatively appropriate. This statement has not sought to repeat these matters, but rather summarise them, so all the statements should be read in

conjunction. English Heritage has not been convinced through the DCO process that there is any basis to change its 'in principle' position.

- 6.2 The setting of the Fort and its commercial operation (optimal viable use) are not mutually exclusive. It is entirely appropriate to consider them in the same context – it is precisely because the Fort is a Scheduled Monument and run by the English Heritage that it has a viable use at all. This approach is supported by policies in both the NPSP and the NPPF. The conservation of the Fort is managed and delivered through funds raised by English Heritage.
- 6.3 The magnitude of adverse effects on the setting and significance of the Fort is greater than that identified by the applicant and as such further mitigation and compensation is necessary to balance the this harm. English Heritage has set out appropriate and reasonable mitigation measures that could be included in the overall proposal and/or as part of the planning obligations.
- 6.4 English Heritage has used its conservation strategy – a prioritising document and not a landscape and setting assessment – to identify appropriately setting related projects for the purposes of this DCO project and the mitigation of the port expansion.
- 6.5 English Heritage trust that the submitted statements have been useful to the Examining Authority in their deliberations and recommendations report.

