

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

The Examining Authority's Response to the Applicant's Draft Development Consent Order (dDCO) Revision 4

Thurrock Council (TC) response

Deadline 6 – 3rd August 2018

Annex A: ExA's Comments, Questions and Expectations arising from dDCO Revision 4

Item No.	Part of DCO	Directed to	Comments, Question, Expectations	TC Response
5.8.5	Art. 11: Classification of roads	Applicant, Thurrock Council (TC)	<p>ExA notes TC's submission at deadline 5 [REP5-051] in which TC states that this matter is still under review in light of the updated information within the dDCO (revision 3).</p> <p>Would the Applicant and TC update the Examination on their discussions on this matter.</p>	<p>The dDCO (Revision 4) affords powers to the Applicant to undertake the classification of roads. TC would point out that there are existing procedures for the Council to undertake this function as per existing legislation and via existing tried and tested arrangements. Ultimately the decision on the acceptability of the drafting rests with the ExA and TC does not object to the current drafting. However, TC wishes to highlight the existing operational arrangements for the classification of roads.</p>
5.8.13	Art. 52: Traffic Regulation Measures	Applicant, Thurrock Council (TC)	<p>ExA notes TC's submission at deadline 5 [REP5-051] in which TC states that this matter is still under discussion, and TC echoes the concerns made by HE at the hearing.</p> <p>Would the Applicant and TC update the Examination on their discussions</p>	<p>The dDCO (Revision 4) would confer powers to the Applicant. As above, TC would point out that there are existing procedures for the Council to undertake this function as per existing legislation and via existing tried and tested arrangements. Ultimately the</p>

			on this matter.	<p>decision on the acceptability of the drafting rests with the ExA and TC does not object to the current drafting. However, TC wishes to highlight the existing operational arrangements relating to traffic regulation measures.</p>
5.8.19	<p>Schedule 2: Requirements R10 Noise monitoring and mitigation</p>	<p>Applicant, Thurrock Council (TC)</p>	<p>ExA notes TC's submission at deadline 5 [REP5-051] in which TC confirms that it is satisfied with Requirement 10, subject to TC sign-off of the reassessment (as detailed in the TC response to question ref. 3.16.5 of the issue specific hearing agenda on outstanding environmental, planning policy and socio-economic issues 27th June 2018).</p> <p>Would the Applicant and TC confirm that this position is secured in the dDCO to their satisfaction.</p>	<p>Thurrock Council (TC) has reviewed Requirement 10 of Schedule 2 of the draft DCO (Revision 4) and is satisfied with the current contents.</p> <p>TC notes that the ExA is of the view that noise limits should also be set once further monitoring has been undertaken and the ExA's recommendation that the sub-section of Requirement 10 entitled 'Ongoing noise monitoring and mitigation scheme' should make reference to noise limits being agreed at monitoring locations.</p> <p>Without prejudice to TC's view, set out above, that the existing drafting of Requirement 10 is satisfactory TC has recently discussed the wording of a potential "<i>Operational</i></p>

				<p><i>noise limits and management"</i> Requirement with the Applicant. The draft wording of this Requirement, as presented to TC on 2nd August 2018, is considered to be acceptable in principle.</p>
5.8.23	Schedule 3: Classification of roads	Applicant, Thurrock Council (TC)	<p>ExA notes TC's submission at deadline 5 [REP5-051] in which TC states that this matter is still under review in light of the updated information within the dDCO (revision 3).</p> <p>Would the Applicant and TC state their positions with regard to dDCO revision 4.</p>	<p>TC agrees the proposed classification of roads as set out at Schedule 3 of the dDCO (Revision 4).</p>
5.8.24	Schedule 8: Traffic regulation measures, etc.	Applicant, Thurrock Council (TC)	<p>ExA notes TC's submission at deadline 5 [REP5-051] in which TC states that this matter is still under review in light of the updated information within the draft DCO (revision 3, and TC notes that the proposed changes to the ASDA roundabout will need to be included in this Schedule 8.</p> <p>Would the Applicant and TC state their positions with regard to dDCO revision 4.</p>	<p>The proposed measures for the Asda roundabout junction are now included in Schedule 8. TC agrees the proposed Traffic Regulation Measures as set out.</p>

5.8.28	Schedule 10, Part 5: For the Protection of Thurrock Council (as drainage board)	Applicant, Thurrock Council (TC)	<p>ExA notes TC's submission at deadline 5 [REP5-051] in which TC states that it shared comments and suggestions on the draft wording with the Applicant on 22 May 2018. TC further states that revision 3 of the dDCO does not incorporate changes to Schedule 10 Part 5 in relation to any of TC's comments, and TC would like to be informed that the Applicant has noted these comments and provided clarification or acknowledgement as appropriate.</p> <p>Would the Applicant and TC state their positions on Schedule 10 Part 5 with reference to dDCO revision 4.</p>	<p>TC provided written comments and suggestions on the proposed wording of Schedule 10, Part 5 of the dDCO (Revision 2) on 22 May 2018. There have been no changes to the dDCO (Revisions 3 or 4) in response to these comments and suggestions. To date, TC has not received any correspondence from the Applicant to acknowledge the issues raised. Therefore, TC's position on the drafting of Schedule 10, Part 5 is unchanged.</p> <p>For information, the comments and suggestions provided by TC to the Applicant on 22 May 2018 were in the form of 'track change' comments. These comments are summarised below (references are to Revision 4 of the dDCO):</p> <ul style="list-style-type: none"> i. Paragraph 50(1) requires some clarification. TC has up to two months to approve an ordinary watercourse consent. The reference to 28 days creates some confusion. Therefore,
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				<p>TC suggests that the wording states that submissions will be made at least two months in advance and then TC has 28 days from submission to request additional plans submissions.</p> <p>ii. Paragraph 52(2) – notice periods may require more than 14 days if, for example, the works interact with other works outside of a typical watercourse extent, e.g. watercourse consents impacting on the highway. Therefore, TC asks for consideration of a clause which takes this into account, noting that the 14 day notice period does not take precedent over other non-watercourse related notice periods which may exist.</p> <p>iii. Paragraph 53(2) – TC should not be liable to costs as a result of the Company or persons responsible for maintenance of the drainage works, if such maintenance is not undertaken and expenses are incurred by TC. TC notes that sub-section (3) allows TC to do whatever is</p>
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				<p>necessary and recover costs if the liable persons have not commenced works under notice within 28 days. However, TC must not be liable for costs for a failure of the liable persons from maintenance of drainage works if such outcome requires TC to undertake immediate or urgent action to rectify any problem affecting its statutory duties, or the welfare of its residents and communities.</p> <p>iv. Paragraph 56(1) – clarity should be provided as to how the Company expects to indemnify TC, and the mechanism to ensure TC is able to recover costs, e.g. bonds. Clarification is requested if this indemnity will be offered/provided prior to any and all works, or at the time of any claim.</p> <p>TC emphasises that the suggestions and comments above may not necessarily require further changes to Schedule 2, Part 5. However, an acknowledgement and</p>
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				response from the Applicant would be appreciated.
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