

PLANNING ACT 2008
INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE)
RULES 2010

PROPOSED PORT TERMINAL AT FORMER TILBURY POWER STATION

TILBURY2

TR030003

EXPLANATION OF CHANGES TO DRAFT
DEVELOPMENT CONSENT ORDER

TILBURY2 DOCUMENT REF:
PoTLL/T2/EX/201



THE PORT OF TILBURY (EXPANSION) ORDER

EXPLANATION OF AMENDMENTS MADE TO THE DRAFT DCO AT DEADLINE 6 (3 AUGUST 2018) (REV 5)

1. INTRODUCTION

- 1.1 This document provides a commentary on changes made to the draft Development Consent Order ("**dDCO**") in the version submitted at Deadline 6 (3 August 2018) (DCO Revision 5), compared with the Revision 4 of the dDCO submitted at Deadline 5 on 6 July 2018 [PoTLL/T2/EX/168].
- 1.2 The Applicant's revised dDCO Revision 5 is document 3.1 (Revision 5) [PoTLL/T2/EX/199], and an electronic .pdf comparison with Revision 4 has also been submitted [PoTLL/T2/EX/200].
- 1.3 In broad terms the changes made in the latest dDCO have been made for the following reasons:
- 1.3.1 changes arising from the Applicant's response to the Examining Authority's Response to the Applicant's dDCO Revision 4 (the ExA's response to the DCO);
 - 1.3.2 changes agreed with Interested Parties; and
 - 1.3.3 other points which the Applicant has identified as requiring amendment since Revision 4 of the draft DCO was submitted at Deadline 5.

2. TABLE OF CHANGES TO THE DRAFT DCO REVISION 5

- 2.1 The Applicant has made a number of minor changes to the Order in Revision 5 including: correcting references; adding full names of statutes; correcting errors, etc. Due to the minor nature of many of these changes, the Applicant has not listed each one individually in the table below. It is considered that such changes are self explanatory however the Applicant would be more than happy to assist the Examining Authority's should any further explanation be required.
- 2.2 Revision 5 of the dDCO does not include the possible requirement 9A: "*Operational noise limits and management (source-based)*" which is set out in the Deadline 6 Noise Resume Paper [PoTLL/T2/EX/196] for the reasons outlined in that document.

Provision in revised draft DCO and/or issue	Brief description and explanation
General	All references to 'St Andrew's Road' have been amended to ensure that an apostrophe is included. This change was made in response to the question raised by the ExA at point 5.8.14 of the ExA's response to the DCO.
Article 2	<p>The following changes have been made to this article:</p> <ul style="list-style-type: none"> • the definition of the "harbour master" has been removed. This has also meant that a consequential change has been made to article 3(10)(d) and article 42(2) where the term "harbour master" has been replaced by "Company Harbour Master". This change was made in response to the question raised by the ExA at point 5.8.1 of the ExA's response to the DCO; and • a definition of the existing river jetty has been added as requested by the PLA and in order to tie in with changes made

Provision in revised draft DCO and/or issue	Brief description and explanation
	to article 3, Schedule 1 and Schedule 9 to the Order.
Article 3	Amendments have been made to article 3 as agreed between the Applicant and the PLA.
Article 4	Amendments have been made to paragraph (6) of article 4 as agreed between the Applicant and the PLA.
Article 9	A new paragraph (8) has been added to this article in order to confirm that a provision contained in Part 3 (street works in England and Wales) of the New Roads and Street Works Act 1991 does not apply to the Company or to the street authority in any case where the protective provisions for Thurrock Council (as highway authority) or for Highways England) contain either an equivalent provision or a provision which conflicts with the provision in Part 3.
Article 10	<p>Two changes have been made to this article:</p> <ul style="list-style-type: none"> • paragraph (3) has been amended to provide that agreement with the street authority must be in writing; and • paragraph (4) has been amended in order to add a maintenance period of 24 months. This change was made in response to the question raised by the ExA at point 5.8.4 of the ExA's response to the DCO.
Articles 12, 13 etc.	<p>In article 12(1) and article 13(1), the words "carrying out the authorised development" have been replaced with "construction of". These changes have been made in response to the question raised by the ExA at point 5.8.6 of the ExA's response to the DCO.</p> <p>The Applicant agrees with the ExA's suggestion that "carrying out" and its cognates should be substituted for "constructing" and its cognates. This change has therefore been made throughout the Order. The Applicant has also noticed the use of the word "execution" which is used to denote construction work and has replaced this with "constructing" and its cognates accordingly.</p>
Article 14	Article 14(1) has been amended in order to remove the words " <i>for the purposes of the authorised development and</i> " and to insert the word " <i>constructing</i> " between the words " <i>purposes of</i> " and " <i>the authorised development</i> ". This change has been made in response to the question raised by the ExA at point 5.8.7 of the ExA's response to the DCO.
Articles 19 and 20	Minor changes have been made to these articles in order to reflect the settled drafting in recently-made Orders including the Silvertown Tunnel Order 2018.
Part 3 and Schedule 5	The Applicant has given further consideration to the provisions which relate to powers of acquisition and possession of land and has made some additional tweaks to the drafting of Part 3 of and Schedule 5 to the Order. These changes reflect the agreed position in recently-made Orders as well as the changes brought in by the Housing and Planning Act 2016.
Article 32	The notice period under article 32(2) has been amended from 14 days to 28 days. This change has been made in response to the question raised by the ExA at point 5.8.8 of the ExA's response to the DCO.
Article 37	This article has been amended in order to make it clear that the term " <i>rights, trusts and incidents</i> " includes all such provisions contained in or under the Commons Regulation (West Tilbury) Provisional Order Confirmation Act 1893.
Schedule 1	The following changes have been made to this Schedule:

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	<ul style="list-style-type: none"> the word “and” has been removed from the first line describing the ancillary works. This change was made in response to the question raised by the ExA at point 5.8.14 of the ExA’s response to the DCO; and the works have been updated to account for the changes requested by the PLA in respect of the terms used to describe the Anglian Water Jetty and the existing river jetty.
Schedule 2, requirements general	The Applicant has amended the references to requirements to lower case. This change was made in response to the question raised by the ExA at point 5.8.21 of the ExA’s response to the DCO.
Schedule 2, requirements 1 and 11	The birds monitoring and action plan has been added to this paragraph in order to reflect its inclusion in requirement 11 as a document which the authorised development must be constructed and operate in accordance with.
Schedule 2, requirement 7	This requirement has been amended following agreement between the Applicant and Highways England. The Applicant is content to agree minor improvements which would benefit the operation of the A13 westbound approach, so resulting in betterment. The Applicant does not, however, accept that the modelled impact is unacceptable without mitigation.
Schedule 2, requirements 9 and 10	The headings of these two requirements have been amended for the purpose of clarity and ease of comprehending the purpose and scope of the two different requirements.
Schedule 2, requirement 17	<p>The references in requirement 17 have been amended to correctly refer to the relevant "paragraph" as opposed to "requirement".</p> <p>This requirement has also been amended to give future flexibility by widening its application to the various documents specified in paragraphs 4 (construction environmental management plan), 5 (off-site mitigation), 6 (terrestrial written scheme of archaeological investigation), 8 (flood risk assessment), 10 (operational noise monitoring and mitigation (receptors)) and 12 (lighting strategy). This approach follows the broader approach adopted in made orders, for example the M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016.</p> <p>Should the requirement 9A: “Operational noise limits and management (source-based)” which is set out in the Deadline 6 Noise Resume Paper [PoTLL/T2/EX/196] be required to be added to the Order then this should also be added to paragraph 1 of requirement 17.</p>
Schedule 3	The Applicant has capitalised “Ferry Road”. This change was made in response to the question raised by the ExA at point 5.8.21 of the ExA’s response to the DCO.
Schedule 4	The word “Borough” has been deleted from Thurrock Council. This change was made in response to the question raised by the ExA at point 5.8.23 of the ExA’s response to the DCO.
Schedule 7	A new paragraph 11 has been added to byelaw 9 (entry on Port Premises). This provides that the Master of every vessel must not

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	refuse any authorised officer entry upon the vessel if the authorised officer has a reasonable suspicion of the contravention of any byelaw or the commission of an offence. This will allow the authorised officer to properly police the byelaws.
Schedule 9	The Deemed Marine Licence has been updated following further discussions between the Applicant and the MMO. The changes made reflect those agreed between the parties following discussions regarding the MMO's response submitted to the ExA at deadline 5.
Schedule 10, Part 4	<p>The protective provisions for the protection of the Environment Agency (EA) have been amended in order to reflect the updated agreed position between the parties with few points still outstanding.</p> <p>A new paragraph has been added in order to make it clear that the Company must consult with the EA as soon as reasonably practicable before applying to the PLA for consent to any dredging. The paragraph gives the EA 28 days to respond to the consultation and also makes it clear that nothing else in the protective provisions for the EA applies to dredging carried out under the powers of the Order.</p>
Schedule 10, Part 5	In paragraph 57 the words " <i>and maintenance</i> " have been inserted after the word " <i>construction</i> ". This reflects the position as agreed with Thurrock Council.
Schedule 10, Part 7	Changes have been made to the provisions for the protection of Thurrock Council as highway authority. These changes reflect amendments agreed between the parties.
Schedule 10, Part 9	Changes to the protective provisions for the benefit of Highways England have been made to reflect discussions with Highways England and to make clearer some of the drafting. Consistent with the approach adopted in the Order, we have replaced the term "carrying out" and its cognates with the word "constructing" and its cognates. Discussions with HE on some remaining aspects of these protective provisions continue.
Schedule 10, Part 10	Changes to the protective provisions for the benefit of RWE have been made to reflect continuing discussions between the parties and to make clearer some of the drafting.
Schedule 11	Some of the references to the documents to be certified and listed in Schedule 11 have been amended in order to reflect the most up-to date versions of those documents submitted into the Examination.