



National Infrastructure Planning
Temple Quay House
2 The Square
Bristol, BS1 6PN

Customer Services: 0303 444 5000
e-mail: Tilbury2@pins.gsi.gov.uk

To all interested parties

Your Ref:

Our Ref: TR030003

Date: 7 August 2018

Dear Sir/Madam

Planning Act 2008 (as amended) and Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended)

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')

Request for further information

The Examining Authority Panel requests the information in Annex A from the following parties:

- Applicant
- Anglian Water Services
- Cadent Gas Limited
- The Crown Estate
- Environment Agency
- Mr A Gothard
- Highways England
- Historic England
- Marine Management Organisation
- National Grid Electricity Transmission plc
- Natural England
- Network Rail
- Port of London Authority
- RWE Generation UK plc
- Thurrock Council
- West Tilbury Commons Conservators

Responses to this request should be received by **deadline 7** (16 August 2018).

In Annex A, references in square brackets (for example [PD-007]) are to documents catalogued in the Examination Library, which can be seen at the following link:

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

Please note that the deadline 6 (3 August 2018) submissions are not yet catalogued in the Examination Library, so they are referenced by the deadline and date.

Yours faithfully

Michael Ebert

Dr Michael Ebert
Lead Member of the Panel of Examining Inspectors

ANNEX A

No.	Request to	Further Information Requested
1	Applicant	<p>Please supply the following items, in which the descriptions are clarifications on the deadline 7 items specified in the timetable in the Rule 8 letter dated 26 February 2018 [PD-007]:</p> <p>A. <i>Final dDCO</i> –</p> <ul style="list-style-type: none"> a. this means a final draft of the dDCO in both clean (in validated SI template and in Word format) and tracked versions, with the first tracked version recording changes between the deadline 6 and 7 versions and the second tracked version recording all of the changes made to the dDCO since the version that was provided with the application [APP-016]; b. supported by an Explanation of Changes document that also records the full history of the changes from the application version to the final version; and c. supported by a fully updated Explanatory Memorandum. <p>B. <i>Any revised or updated Statements of Common Ground (SoCGs)</i> –</p> <ul style="list-style-type: none"> a. a final SoCG Update Report, containing the final versions of all of the SoCGs, not just those that have been revised or updated since the last issue. <p>All other items under deadline 7 in the Rule 8 letter are as stated in that document.</p>
2	Applicant	<p>Please supply the following additional items at deadline 7:</p> <ol style="list-style-type: none"> 1) A final version of the Planning Policy Compliance Statement [currently REP5-038] reflecting the revised National Planning Policy Framework published on 24 July 2018; 2) A final certified Environmental Mitigation and Compensation Plan (EMCP); 3) A final version of the Habitats Regulation Assessment; 4) Final versions of the Terrestrial Archaeological Written Scheme of Investigation (WSI) and Marine Archaeological WSI, stating whether they are certified or not certified; 5) The final version of the s106 Development Consent Obligation between the Applicant and Thurrock Council,

		<p>signed by all parties;</p> <p>6) Final versions of any other documents that have changed;</p> <p>7) An end of examination Application and Examination Document Tracker [currently REP5-040].</p>
3	Applicant	<p>1) Further to the Applicant's response [REP1-016] to the ExA's first written questions [PD-007] Q1.9.16, and paragraphs 14.22 to 14.25 of the Environmental Statement [APP-031], would the Applicant please provide a table confirming the anticipated number of vessel movements per annum using the proposed RoRo and aggregate berths;</p> <p>2) Would the Applicant also provide any historic information about the number of vessel movements per annum using the existing berth when the Tilbury Power Stations were operational, and similarly for the adjacent Anglian Water berth.</p>
4	Applicant	<p>1) Plot 03/05 has been removed from the Order according to the letter from the Applicant at deadline 2 [REP2-006]. References to this plot are still contained in several appendices to the Statement of Reasons [REP5-009]. Can these be updated accordingly?</p> <p>2) Similarly can any references to this plot be amended in all other Compulsory Acquisition documents.</p>
5	Applicant	<p>With reference to the Applicant's submission <i>Response to ExA Comments on DCO and Related Interested Parties' Deadline 5 Submissions</i> at deadline 6, item 5.8.31, regarding the Lower Thames Crossing, would the Applicant comment on the specific suggestion of Highways England in its deadline 6 submission that the protective provisions included in Schedule 10 Part 9 of the draft DCO could require consent to be obtained from HE for the use of land for the translocation of species from the Tilbury2 site.</p>
6	Anglian Water Services (AWS) (via Major Infrastructure Planning Manager)	<p>The Panel has taken Anglian Water Services' written representation [REP1-025] as containing an objection to the use of compulsory acquisition and temporary possession powers as they affect Anglian Water's assets.</p> <p>Whilst we appreciate these matters are related to agreeing satisfactory protective provisions with the Applicant for inclusion in Schedule 10 Part 8 of the draft DCO (latest version: Revision 5 at deadline 6), would AWS please confirm</p>

		by deadline 7 (16 August 2018) whether you are now content and whether the objection is maintained or withdrawn.
7	Cadent Gas Limited (CGL) (via Shakespeare Martineau)	<p>The Panel has taken Shakespeare Martineau's letter of 20 March 2018 enclosing a written representation on behalf of Cadent Gas Ltd [REP1-040] as containing a formal objection to the use of compulsory acquisition powers as they affect CGL's interests.</p> <p>Whilst we appreciate that these matters are related to agreeing satisfactory protective provisions with the Applicant for inclusion in Schedule 10 Part 11 of the draft DCO (latest version: Revision 5 at deadline 6), and mindful of the position as set out in the Statement of Common Ground 019 [REP5-017], would CGL please confirm by deadline 7 (16 August 2018) whether the objection to compulsory acquisition powers is maintained or withdrawn.</p>
8	The Crown Estate	<p>The Crown Estate's relevant representation dated 20 December 2017 [RR-007] states that the consent of the Crown Estate Commissioners will be needed for any part of the proposed development, i.e. the extension of the existing jetty, which is on Crown Land.</p> <p>Would the Crown Estate please confirm by deadline 7 (16 August 2018) whether such consent has been given or is withheld.</p>
9	Environment Agency (EA) (via Mr Pat Abbott, Planning Advisor)	<p>The Environment Agency's letter dated 3 July submitted at deadline 5 [REP5-052] together with the Statement of Common Ground 004 (latest version at deadline 6) indicates that the Agency is content with the draft DCO, subject to agreement to the protective provisions with regard to the disapplication of legislation within the EA's remit. From the EA's letter of 3 August at deadline 6, it is apparent that such agreement has not yet been reached in relation to article 3 concerning disapplication of s24 Water Resources Act 1991.</p> <p>The Panel also notes from the EA's submission at deadline 6 that the EA is satisfied with the offsite mitigation proposals as per its letter dated 3 July, and the issue is stated to be fully covered in the SoCG. According to the EA, detailed plans need to be provided by the developer and approved by EA via its protective provisions.</p> <p>We also note the Applicant's submission <i>Response to ExA Comments on DCO and Related Interested Parties' Deadline 5 Submissions</i> at deadline 6, items 5.8.16, 5.8.25 and 5.8.27.</p>

		<p>Would the Environment Agency please confirm by deadline 7 (16 August 2018) whether you are content with the form of protective provisions included in Schedule 10 Part 4 of the draft DCO in the latest version: Revision 5 at deadline 6. If not would you state whether agreement has been reached between the Applicant and the Agency about the form of protective provisions to be included in the final draft of the DCO to be submitted by the Applicant at deadline 7, and again if not, what precise amendments the Agency would be seeking.</p>
10	Mr A Gothard (via Strutt and Parker)	<p>Mr Peter Cole of Strutt and Parker attended the Compulsory Acquisition Hearing on 20 April 2018, representing the interests of the Cole family in plots 03/07, 03/08 and 03/11, and the interests of Mr A. Gothard in plots 03/09, 03/10 and 03/12. He explained the status of negotiations at that time, and the Applicant subsequently set out the position as it understood them at the second Compulsory Acquisition Hearing on 27 June 2018 [REP5-013].</p> <p>The Panel notes the letter dated 1 August 2018 at deadline 6 from Roythornes Solicitors representing the Cole Family, which states that agreement has now been reached and all objections withdrawn.</p> <p>With regard to Mr A Gothard, would you please confirm by deadline 7 (16 August 2018) whether satisfactory terms have been agreed with the Applicant, and whether any objection to compulsory acquisition and temporary possession powers is maintained or withdrawn.</p>
11	Highways England (HE)	<p>The Panel has taken Highways England's representations submitted at deadline 1 [REP1-060], specifically section A2, and reiterated at deadline 3 [REP3-046] and deadline 4 [REP4-002] as containing a formal objection to the use of temporary possession powers as they affect Highways England's interests. This position appears to be modified somewhat in HE's submissions at deadline 5 [REP5-058] and deadline 6.</p> <p>We note that the matters still under discussion at deadline 6 are:</p> <ul style="list-style-type: none"> • <u>M25 J30</u>, on which <i>HE states that it has identified a potential improvement scheme and HE is evaluating evidence provided by the Applicant about the amount of mitigation it provides. At this stage it is not possible to say whether the mitigation will be sufficient to overcome HE's concern. HE expects to complete the evaluation early in the week commencing 6 August</i>"; • <u>Requirement 7 Highway works</u>, which – according to HE - may need to be modified to reflect the need for

		<p>the Applicant to enter into a form of agreement with HE for the carrying-out of required mitigation or the payment of monies to HE to perform the necessary mitigation;</p> <ul style="list-style-type: none"> • <u>Asda roundabout</u>, on which discussions are ongoing on traffic regulation measures and may necessitate changes to the dDCO, notably Art 52; • <u>Lower Thames Crossing (LTC)</u>, where HE states that there is the possibility of conflict between use of land by Tilbury2 port if utilised for the translocation of species in the area of the LTC and the delivery of the LTC project. <p>HE states that “<i>the current expectation is that it will be possible for the parties to reach agreement on the vast majority of outstanding points before close of the examination</i>”. HE’s proposed protective provisions are included with its submission at deadline 6.</p> <p>We also note the Applicant’s submission <i>Response to ExA Comments on DCO and Related Interested Parties’ Deadline 5 Submissions</i> at deadline 6, items 5.8.8, 5.8.9, 5.8.13, 5.8.14 and 5.8.31.</p> <p>We appreciate that the above matters are related to agreeing satisfactory protective provisions with the Applicant for inclusion in Schedule 10 Part 9 of the draft DCO.</p> <p>Would Highways England please confirm by deadline 7 (16 August 2018) whether it is content with the form of protective provisions included in Schedule 10 Part 9 of the draft DCO in the latest version: Revision 5 at deadline 6. If not, would HE state whether agreement has been reached between the Applicant and HE about the form of protective provisions to be included in the final draft of the DCO to be submitted by the Applicant at deadline 7, and the draft DCO as a whole, and again if not, what precise amendments HE would be seeking.</p> <p>Would HE also confirm whether the objection to temporary possession powers is maintained or withdrawn.</p>
12	Historic England	<p>The Panel notes Historic England’s submission at deadline 6 dated 30 July 2018, in which Historic England states that Requirement 3 <i>External appearance and heights</i> is to be subject to further discussion after deadline 6.</p> <p>Historic England states that the Marine Archaeological Written Scheme of Investigation (WSI) conforms to an outline document appropriate for the examination of the proposed development, but that it requires enforceable conditions in the Deemed Marine Licence (DML), Schedule 9 to the dDCO. Historic England has supplied its proposed draft conditions at deadlines 3 and 5, and repeats them with</p>

		<p>its submission at deadline 6.</p> <p>We also note the Applicant's submission <i>Response to ExA Comments on DCO and Related Interested Parties' Deadline 5 Submissions</i> at deadline 6, items 5.8.15, 5.8.17 and 5.8.25.</p> <p>Would Historic England please state whether it is satisfied with the draft V5 of the Marine Archaeological WSI submitted by the Applicant at deadline 6 (acknowledging that it wishes to maintain its position concerning enforceability). Also, would Historic England reaffirm its final position with regard to the significance of Tilbury Fort, and the Terrestrial Archaeological WSI.</p>
13	Marine Management Organisation (MMO) (via Heather Hamilton, Marine Licensing Case Manager)	<p>The Marine Management Organisation's letter dated 6 July submitted at deadline 5 [REP5-056] together with the Statement of Common Ground 008 [REP3-028] indicates that the MMO is content with the draft DCO, subject to agreement to article 43, and the final version of the Deemed Marine Licence (DML).</p> <p>MMO states in its submission at deadline 6 that the Marine Archaeological Written Scheme of Investigation (WSI) should either be certified or conditions should be added to the DML.</p> <p>We also note the Applicant's submission <i>Response to ExA Comments on DCO and Related Interested Parties' Deadline 5 Submissions</i> at deadline 6, items 5.8.10 and 5.8.25.</p> <p>Would MMO please confirm by deadline 7 (16 August 2018) whether it is satisfied with the draft V5 of the Marine Archaeological WSI submitted by the Applicant at deadline 6.</p> <p>Would MMO also please confirm by deadline 7 (16 August 2018) whether it is content with the draft DCO in the latest version: Revision 5 at deadline 6, in particular article 43 and the form of the DML to be included in Schedule 9 of the draft DCO. If not, would MMO also state whether agreement has been reached between the Applicant and MMO about the draft of the DCO to be submitted by the Applicant at deadline 7, and again if not, what precise amendments MMO would be seeking.</p>
14	National Grid Electricity Transmission (NGET) (via Shakespeare Martineau)	<p>The Panel has taken Shakespeare Martineau's letter of 20 March 2018 enclosing a written representation on behalf of NGET [REP1-077] as containing a formal objection to the use of compulsory acquisition and temporary possession powers as they affect NGET's interests.</p> <p>Whilst we appreciate that these matters are related to agreeing satisfactory protective provisions with the Applicant for inclusion in Schedule 10 Part 12 of the draft DCO (latest version: Revision 5 at deadline 6), and mindful of the</p>

		<p>position as set out in the Statement of Common Ground 20 [REP5-017] dated 5 July 2018, would NGET please confirm by deadline 7 (16 August 2018) whether the objection to compulsory acquisition powers is maintained or withdrawn.</p>
15	Natural England (NE)	<p>The Panel notes Natural England's submission at deadline 6, in which NE states that: "<i>We remain in contact with the applicant and will seek to conclude a Statement of Common Ground with them before Deadline 7 although we anticipate there are likely to be some outstanding areas of disagreement</i>".</p> <p>NE makes a number of observations on the Report on the Implications for European Sites (RIES), with a number of areas agreed and some not agreed.</p> <p>We also note the Applicant's submission <i>Response to ExA Comments on DCO and Related Interested Parties' Deadline 5 Submissions</i> at deadline 6, item 5.8.16.</p> <p>NE also stresses that where the Environmental Mitigation and Compensation Plan (EMCP) is relied on for mitigation, it should be a certified document. The Panel notes that the Applicant has supplied an update to the EMCG at deadline 6 and expects to certify it by the end of the Examination.</p> <p>In its written representations at deadline 1 [REP1-074], NE states that it cannot support the proposed development as currently submitted as it does not represent sustainable development. In its deadline 5 submission [REP5-061], NE states that it is not yet able to agree with the conclusion that there will not be an adverse effect on the integrity (AEOI) of the Thames Estuary and Marshes SPA and Ramsar site either alone or in combination. In its letter dated 3 August submitted at deadline 6, NE advises it is not pursuing what it considers to be an insurmountable objection with regards to impacts on European Sites, and there should not be a need to proceed to Stage 3 or 4 of HRA.</p> <p>Would NE please confirm at deadline 7 (16 August 2018) its final position on these matters raised in the previous paragraph. In particular, if NE is not able to agree to no AEOI by the close of the Examination and the ExA decides to take NE's advice, how does it envisage the subsequent stages?</p> <p>In its deadline 5 submission [REP5-061], NE also provided comments on the draft EMCP. Would NE please confirm by deadline 7 whether it is content with the latest version of the EMCP included at deadline 6. If not, would NE state whether agreement has been reached between the Applicant and NE about the final draft of the EMCP to be submitted by the Applicant at deadline 7.</p>

16	Network Rail (NR) (via Addleshaw Goddard LLP)	<p>The Panel has taken Network Rail's relevant representation [RR-013] together with Addleshaw Goddard's submission of 19 March 2018 enclosing a written representation on behalf of NR [REP1-075], and reiterated at deadline 3 [REP3-035] and deadline 4 [REP4-006], as containing a formal objection to the use of compulsory acquisition powers as they affect NR's interests.</p> <p>We also note NR's submission at deadline 6, in which NR states that its position on the protective provisions is as stated at deadline 5, and discussions are ongoing.</p> <p>We also note the Applicant's submission <i>Response to ExA Comments on DCO and Related Interested Parties' Deadline 5 Submissions</i> at deadline 6, item 5.8.29.</p> <p>Would NR please confirm by deadline 7 (16 August 2018) whether it is content with the form of protective provisions included in Schedule 10 Part 6 of the draft DCO in the latest version: Revision 5 at deadline 6. If not, would NR state whether agreement has been reached between the Applicant and NR about the form of protective provisions to be included in the final draft of the DCO to be submitted by the Applicant at deadline 7, and again if not, what precise amendments NR would be seeking.</p> <p>Would NR also please confirm whether the objection to compulsory acquisition powers is maintained or withdrawn.</p>
17	Port of London Authority (PLA) (via Winckworth Sherwood LLP)	<p>The Panel has taken Winckworth Sherwood's written representation on behalf of the Port of London Authority [REP1-080] as containing a formal objection at paragraph 5.1 to the use of compulsory acquisition powers as they affect the PLA's interests.</p> <p>We appreciate that these matters are related to agreeing satisfactory protective provisions with the Applicant for inclusion in Schedule 10 Part 3 of the draft DCO, a lease of the riverbed rather than compulsory acquisition and amendments to various articles in the draft DCO. These now appear to be largely settled to the PLA's satisfaction.</p> <p>We note PLA's submission at deadline 6, in which PLA states that it does not agree with the wording for articles 3 and 4 in revision 4 of the dDCO, but that agreement has since been reached on appropriate wording. We also note PLA's statements on articles 14 and 43.</p> <p>We also note the Applicant's submission <i>Response to ExA Comments on DCO and Related Interested Parties' Deadline 5 Submissions</i> at deadline 6, items 5.8.2, 5.8.3 and 5.8.26.</p> <p>Would PLA please confirm by deadline 7 (16 August 2018) whether it is content with the form of protective provisions included in Schedule 10 Part 3 of the draft DCO in the latest</p>

		<p>version: Revision 5 at deadline 6. If not, would PLA state whether agreement has been reached between the Applicant and PLA about the form of protective provisions to be included in the final draft of the DCO to be submitted by the Applicant at deadline 7, and the draft DCO as whole, and again if not, what precise amendments PLA would be seeking.</p> <p>Would PLA also please confirm by deadline 7 (16 August 2018) whether the objection to compulsory acquisition powers is maintained or withdrawn.</p>
18	RWE Generation UK plc (RWE) (via Eversheds Sutherland (international) LLP)	<p>Eversheds Sutherland's submission at deadline 5 on behalf of RWE Generation UK plc [REP5-055] indicates that RWE is content with the draft DCO, subject to agreement to article 3 and the protective provisions.</p> <p>The Panel notes RWE's submission at deadline 6, in which RWE states that it is "<i>largely content with Art 3 ... but its satisfaction with Art 3 still remains subject to proposed amendments to the protective provision being incorporated within the final DCO</i>".</p> <p>RWE states that it submitted its proposed drafting for Schedule 10 Part 10 to the hearing on 26 June, and at deadline 5 [REP5-055]. RWE again included its proposed drafting at deadline 6.</p> <p>We also note the Applicant's submission <i>Response to ExA Comments on DCO and Related Interested Parties' Deadline 5 Submissions</i> at deadline 6, item 5.8.32.</p> <p>Would RWE please confirm by deadline 7 (16 August 2018) whether it is content with the form of protective provisions included in Schedule 10 Part 10 of the draft DCO in the latest version: Revision 5 at deadline 6. If not, would RWE state whether agreement has been reached between the Applicant and RWE about the form of protective provisions to be included in the final draft of the DCO to be submitted by the Applicant at deadline 7, and the draft DCO as a whole, and again if not, what precise amendments RWE would be seeking.</p>
19	Thurrock Council (TC)	<p>The Panel notes TC's submission at deadline 6, in which TC states that it is content with the wording of articles 11 and 52, but believes that the necessary powers already exist.</p> <p>We note the Applicant's submission <i>Response to ExA Comments on DCO and Related Interested Parties' Deadline 5 Submissions</i> at deadline 6, and a number of instances where it believes responses are awaited from TC.</p> <p>We also note items 5.8.28 and 5.8.30 in the same document.</p>

		<p>Would TC please confirm by deadline 7 (16 August 2018) whether it is content with the form of protective provisions included in Schedule 10 Parts 5 and 7 of the draft DCO in the latest version: Revision 5 at deadline 6. If not, would TC state whether agreement has been reached between the Applicant and TC about the form of protective provisions to be included in the final draft of the DCO to be submitted by the Applicant at deadline 7, and the draft DCO as whole, and again if not, what precise amendments TC would be seeking.</p>
20	<p>West Tilbury Commons Conservators (WTCC) (via the Clerk, Mr AN Jones)</p>	<p>The Panel refers to WTCC's representation in its letter of 4 January 2018 [AS-039], which sets out a number of conditions the Conservators would wish to apply to replacement common land. The Applicant explained the status of negotiations at the Compulsory Acquisition Hearing on 20 April 2018 [REP3-031], and updated the position as understood by it at the second Compulsory Acquisition Hearing on 27 June 2018 [REP5-013]. Plot 03/04a is to be compulsorily acquired from Thurrock Council as replacement land for plots 03/08 and 03/11, with temporary possession powers over plot 03/07.</p> <p>We appreciate that these matters are related to agreeing satisfactory terms with the Applicant, and the principle of land exchange is accepted in your letter to the Applicant dated 30 July 2018.</p> <p>Would WTCC please confirm by deadline 7 (16 August 2018) whether all matters now been concluded, and therefore whether the Conservators are content or not.</p>