

PLANNING ACT 2008  
INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE)  
RULES 2010

PROPOSED PORT TERMINAL AT  
FORMER TILBURY POWER STATION

**TILBURY2**

TR030003

UPDATED STATEMENT OF REASONS V3 -  
CLEAN

TILBURY2 DOCUMENT REF:  
PoTLL/T2/EX/217



**Infrastructure Planning**

**Planning Act 2008**

**The Infrastructure Planning  
(Applications: Prescribed Forms and  
Procedure) Regulations 2009**

**Tilbury2**

**Port of Tilbury (Expansion)  
Development Consent Order 201[\*]**

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**STATEMENT OF REASONS**

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<b>Regulation Number:</b>	Regulation 5(2)(h) Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009
<b>Planning Inspectorate Scheme Reference</b>	TR030003
<b>Application Document reference</b>	4.1

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## FOREWORD

This Statement of Reasons ("this Statement") relates to an application ("the Application") made by Port of Tilbury London Limited ("PoTLL") to the Secretary of State for Transport via the Planning Inspectorate under the *Planning Act 2008* (as amended) (the *Act*).

The Application is for development consent for the Tilbury2 scheme ("the proposals"). This Statement explains why, if a development consent order ("DCO") is made by the Secretary of State for Transport in respect of the proposals, it will be necessary for that DCO to contain powers to enable PoTLL to acquire compulsorily land and rights over land, and to take possession of land temporarily, to enable the construction and delivery of the proposals ("the Land"). This Statement also explains why there is a compelling case in the public interest for PoTLL, as promoter of the proposals and as PoTLL for the DCO, to be granted these powers of compulsory acquisition and temporary possession in respect of the Land.

Without the acquisition and temporary use of the Land, the proposals cannot be delivered. The need to ensure that the proposals can be delivered requires the acquisition of a number of interests in so much of the Land as is in third party ownership. Whilst PoTLL will acquire the Land by agreement wherever possible, powers of compulsory acquisition are also required as a means of overriding existing rights and interests in or over land, as well as creating new rights over land, and granting the right to take temporary possession of land. PoTLL's application for a DCO is supported by Land Plans and Works Plans. The Land Plans show the extent of the Land required for the proposals. The Works Plans show the works that would be carried out on the Land. This Statement explains (at Appendix A) how the proposals (if authorised by the DCO) would affect each plot of Land and how and why each plot of Land is needed for the proposals.

## **EXECUTIVE SUMMARY**

### **The Statement of Reasons**

This Statement of Reasons relates to an application made by Port of Tilbury London Limited to the Planning Inspectorate on behalf of the Secretary of State for Transport, under section 37 of the *Act* for powers, including powers to acquire land compulsorily and to use land temporarily, to build and operate Tilbury2 and associated works, and to undertake all other necessary measures pursuant to a Development Consent Order.

This Statement has been prepared in accordance with the requirements of section 37(3)(d) of the *Act* and regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 ("the APFP Regulations").

### **Description of the Proposals**

The Application is for a DCO for the proposals which If made by the Secretary of State for Transport, the Port of Tilbury (Expansion) Development Consent Order 201[\*]] would grant powers to enable the construction of a new port, warehouse and construction material and aggregates terminal. The proposals also involve road and rail links to the existing networks ("the infrastructure corridor").

### **Need for the Proposals**

The proposed port terminal at Tilbury2 is supported by the objectives of Government as set out in the Ports NPS to cater for the long-term forecast growth in volumes of imports and exports by sea. Strategically located in Tilbury, South Essex, the port offers excellent connectivity to and from London and across the South East. It is ideally positioned for access to the M25, with 70 per cent of the UK's population reachable within a 120-mile radius, and is presently connected to three rail terminals offering daily services across the UK. The port is therefore well-placed to deliver products to London and to the rest of the UK. The existing port has seen significant increases in throughput and has limited to capacity to achieve further growth.

Future success therefore requires more land to accommodate projected growth. PoTLL's purchase of the Tilbury2 site was based on that business aspiration. This site will not only meet the Port's business objectives of increasing investment and employment but will meet customer and tenant demand for more space which was identified in recent surveys of latent demand within the existing Port.

The Outline Business Case (OBC Document reference 7.1) explains the business need for expansion and sets out an economic case for the proposals, and the benefits in terms of investment and employment. The proposals will assist the promotion of economic growth by contributing to an efficient and



competitive transport sector, a multi-modal and hence cleaner/greener and safe transport system.

### **Powers sought in the DCO**

This Statement is required because the DCO, if made, will include powers to:

- acquire land compulsorily;
- create and acquire compulsorily new rights over land;
- extinguish or override existing rights over land; and
- use and possess land temporarily;

for the purposes of the proposals.

### **Scope of powers sought**

The powers authorising the acquisition of land, or of interests in and/or rights over land, are principally contained in articles 23 (compulsory acquisition of land) and 25 (compulsory acquisition of rights and imposition of restrictive covenants) of the DCO, but there are a number of other DCO articles which also contain powers affecting land.

If the DCO were made and development consent granted, these powers would authorise the compulsory acquisition of land (article 23), the acquisition of subsoil and airspace only (article 26), the temporary use of land (article 32), for example for construction, and they would permit PoTLL to create and acquire new rights over land (article 25).

The DCO would also confer on PoTLL other rights and powers the exercise of which may result in interference with property rights and private interests in land.

Where these powers of compulsory acquisition are exercised, owners of the relevant land or rights in land will be entitled to compensation under the Compensation Code, where a valid claim is made out. Any dispute in respect of the compensation payable would be referred to and determined by the Lands Chamber of the Upper Tribunal.

### **Diligent inquiry/land referencing**

As required in accordance with the Act, PoTLL undertook “diligent inquiry” through a land referencing process to identify parties within Categories 1, 2 and 3, as defined in sections 44 and 57 of the Act, but taking account of the fact that PoTLL owns a large proportion of the Land. These include in Category 1 owners, lessees, tenants and occupiers of the land within the Order limits. Category 2 includes parties that are interested in the land or have the power to sell, convey or release the land within the Order limits. Category 3 includes those outside the Order limits who may also have a claim for compensation.

The Land Referencing Limits were set to include the following:

- all land within the Order limits required for the proposals;
- all residential properties and community buildings eligible to make a relevant claim;

The Book of Reference (document reference 4.3) sets out the results of the land referencing.

### **Consultation with major landowners**

PoTLL has been in discussion for a considerable length of time with many of the landowners affected by the proposals, with the continuing aim of negotiating to acquire by agreed private treaty the land and rights needed to construct and operate the proposals. As a result, PoTLL is aiming to secure options to purchase the freehold of a number of parcels of land required for the proposals, and to take leases of land that is proposed to be temporarily possessed.

The current position in relation to PoTLL's engagement and negotiations with landowners affected by the proposals is explained in Appendix B to this Statement. Detailed discussions are ongoing with landowners and occupiers in order to ensure that their concerns are taken into account and accommodated wherever possible.

### **Justification for seeking powers**

The specific purposes for which PoTLL requires each parcel of land within the Order limits is set out in Appendix A to this Statement. The Secretary of State must be satisfied before making the DCO that the land identified within the Order limits is needed for the development and that no more land is proposed to be taken than is reasonably required to enable the delivery of the proposals.

Due to the nature of the design process and the timing of the consenting process, PoTLL requires a degree of flexibility as to where certain sections of the proposals can be constructed within the defined limits of deviation which are provided for in the draft Order. PoTLL is satisfied that all the land included in the Order land is necessary to enable the delivery of the proposals. However, it may transpire in due course that some part of the Order land is not required, for instance as a result of the detailed design process; in which case it would not and indeed could not be acquired by the use of compulsory acquisition powers. Further, it may transpire that a parcel of land for which compulsory acquisition powers have been sought has been acquired by agreement as a result of successful negotiations and in those circumstances compulsory acquisition powers would not be exercised. In both cases in respect of such land the exercise of compulsory acquisition powers would be neither necessary nor justified.

PoTLL's approach, which combines attempts to acquire land by agreement in parallel with the planning process, of a compulsory acquisition timetable as a contingency measure, and with taking action to initiate formal compulsory

acquisition procedures, is in accordance with the Department of Communities and Local Government's 2013 Guidance on procedures for the compulsory acquisition of land ("2013 DCLG Guidance").

For the reasons set out in detail in this Statement, PoTLL considers that there is a compelling case in the public interest which would justify the use of powers of compulsory acquisition, such that the relevant statutory tests in sections 122 of the Act were met.

### **Options Assessment**

A number of options were considered for the infrastructure corridor (where the majority of the compulsory acquisition requirements for the proposals are located). This is set out in more detail in the Surface Access Options Report (document reference 6.1. 5.A Appendix 1). A detailed assessment process was undertaken to identify the land and rights needed to implement the proposals. A number of engineering and design alternatives were considered and landowner negotiations were ongoing and influenced the process. The Masterplanning Statement document (document reference 6.2 5A) explains the options that have been considered in relation to the proposed marine infrastructure and why ultimately the marine infrastructure has to be the design that it is to ensure that the proposals meet the needs for which they are required (as set out in the Outline Business Case (document reference 7.1)). This has informed the compulsory acquisition requirements in the marine environment.

### **Funding**

The Funding Statement for the proposals (document reference 4.2) sets out, in accordance with the recommendation in the 2013 DCLG Guidance (at paragraph 9), that there is a "reasonable prospect of the requisite funds for acquisition becoming available" for the proposals. It goes on to confirm that funds for compulsory acquisition will be in place before compulsory acquisition powers are used. It explains how the proposals, and the compulsory acquisition of land required to enable its delivery are proposed to be funded, and how the requisite funding would be made available within a reasonable timescale.

### **Statutory undertakers**

Appendix D to this Statement of Reasons contains a list of statutory undertakers and other similar bodies which have, or which may have, a right to keep equipment (in connection with their undertaking) on, in or over the land required for the proposals. Utilities diversions are included in the Schedule of Works which forms Schedule 1 of the draft DCO for the proposals (document reference 3.1).

The tables in chapter 8 of this Statement sets out the plots of land owned by statutory undertakers that are proposed to be acquired in connection with the proposals.

### **Special category land**



PoTLL's proposed Order limits include an area of common land, proposed for compulsory acquisition and temporary possession.

However, as part of the wider compulsory acquisition proposals for the proposals, an area of land is proposed to be compulsorily acquired that will provide 'replacement land' for this common land within the meaning of section 131(4) of the Act. This land will be vested in the owners of the common land being acquired and will be subject to the same rights, trusts and incidents as are attached to the common land affected by the Proposals. The DCO will therefore not need to be subject to special parliamentary procedure.

Where PoTLL is seeking only powers of temporary possession over common land, this is not compulsory acquisition, and as such would not trigger the protections in sections 131 or 132 of the Act.

### **Conclusion**

PoTLL considers that there is a compelling case in the public interest for the making of the DCO and for the inclusion in the DCO of powers of compulsory acquisition and temporary possession, so as to secure the necessary land and property interests required to construct and operate the proposals.

## 1.0 INTRODUCTION

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- 1.1 This Statement relates to PoTLL's proposals for a DCO that includes powers of compulsory acquisition of land, to build and operate the proposals and associated works, and to undertake all other necessary measures pursuant to the DCO.
- 1.2 Tilbury2 is a proposed new port terminal and associated facilities. The proposals will form an extension to the operations at the existing Port of Tilbury, allowing the Port to grow and continue to support local, regional and national economic growth.
- 1.3 This Statement has been prepared in accordance with the requirements of section 37(3)(d) of the Act and regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 ("the APFP Regulations"), and with guidance issued by the Department for Communities and Local Government in September 2013, Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land ("the 2013 DCLG guidance"), and in October 2015, Guidance on Compulsory Purchase Process and the Crichel Down Rules ("the 2015 DCLG Guidance"). It forms part of the documents accompanying the Application submitted in accordance with section 55 of the Act and regulation 5 of the APFP Regulations. The Application seeks development consent for the proposals by the making of the proposed DCO, which would confer the powers sought.
- 1.4 This Statement of Reasons is part of a suite of application documents submitted for the purposes of section 55 'Acceptance of applications' of the 2008 Act. These documents inform this Statement and should be read alongside it. This Statement is required because the DCO, if made, will include powers to:
- acquire land compulsorily;
  - create and acquire compulsorily new rights over land; and
  - extinguish or override existing rights over land,
- for the purposes of the proposals.
- 1.5 It is necessary for the decision maker in respect of the Application to be satisfied that there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the Order for the purposes of the proposals.
- 1.6 PoTLL considers that there is a compelling case in the public interest for the making of the DCO and the inclusion of powers for compulsory acquisition so as to secure the necessary land and property interests required to construct and operate the proposals. The purpose of this Statement is to explain why this is so.

- 1.7 The Application is being made to secure the requisite powers to build and operate the proposals; a nationally significant infrastructure project for which there is a national and local need. Those powers are set out in the draft DCO which accompanies the Application for development consent.
- 1.8 The proposals are a nationally significant infrastructure project ("NSIP") under section 24 of the Planning Act 2008 as the new infrastructure will be capable of handling the embarkation and disembarkation of at least 250,000 units by ro-ro ships per year. The NSIP status of the proposals means that the project may only be authorised by means of a DCO made by the Secretary of State under the Planning Act 2008.
- 1.9 The proposals are supported by the objectives of Government as set out in the Ports NPS to cater for the long-term forecast growth in volumes of imports and exports by sea. Strategically located in Tilbury, South Essex, the port offers excellent connectivity to and from London and across the South East. It is ideally positioned for access to the M25, and with 70 per cent of the UK's population reachable within a 120-mile radius, and is presently connected to three rail terminals offering daily services across the UK. The port is therefore well-placed to deliver products to London and to the rest of the UK. The existing port has seen significant increases in throughput and has limited to capacity to achieve further growth.
- 1.10 Future success therefore requires more land to accommodate projected growth. PoTLL's purchase of the land in which the port facilities (rather than the infrastructure corridor will sit ('the Tilbury2 site') was based on that business aspiration. The Tilbury2 site will not only meet the Port's business objectives of increasing investment and employment but will meet customer and tenant demand for more space which was identified in recent surveys of latent demand within the Port.
- 1.11 In accordance with the requirements of the APFP Regulations and the 2013 and 2015 DCLG Guidance, PoTLL has, as part of the DCO application, provided the following documents relating to the justification for compulsory acquisition powers to be granted for the purposes of constructing and operating the proposals:

- this Statement (document reference 4.1)
- the Funding Statement (a statement to explain how the proposals contained in the Order for compulsory acquisition will be funded)(document reference 4.2);
- plans showing the land which would be compulsorily acquired and land over which new rights would be compulsorily acquired, including crown land and land to be used temporarily. This set of plans also denotes the land which would be compulsorily acquired that is special category land and its replacement land ("the Land Plans and Crown Land Plan") (document reference 2.3); and
- the Book of Reference, identifying the names and addresses of persons with an interest in the Land (document reference 4.3).

1.12 The Land is more fully described in chapter 4 of this Statement.

1.13 This Statement is structured as follows:

- Chapter 1 provides an introduction to the proposals and its objectives and to the basis on which an application for a DCO will be made.
- Chapter 2 provides a detailed description of the proposals.
- Chapter 3 describes the scope of the compulsory acquisition and temporary possession powers that are being sought in relation to the Land and which are set out in the *Draft Development Consent Order* (the DCO).
- Chapter 4 sets out the location, topographic features and current usage of the Land that would, if the DCO were made, be subject to the exercise of powers of compulsory acquisition and temporary possession; this chapter also describes land in the vicinity of the proposals.
- Chapter 5 explains the purpose for which the compulsory acquisition and temporary possession powers are sought, and how the exercise of the powers to acquire land compulsorily, acquire new permanent rights over land, and take temporary possession of land would be given effect. Further detail is provided in Appendix A to this Statement, explaining exactly what land or rights need to be acquired, and what land needs to be possessed temporarily, in relation to which part of the proposals. The purpose of these explanations is to demonstrate that each parcel of Land (affected by the proposals) is necessary to the delivery of the proposals.
- Chapter 6 considers matters that the Secretary of State must have regard to in deciding whether or not to include powers to acquire land compulsorily in the DCO for the proposals, and concludes that the granting and exercise of powers of compulsory acquisition and temporary possession to enable the delivery of the proposals would be justified, proportionate and in the public interest.
- Chapter 7 and Appendix B of this Statement explain the engagement that has been undertaken with land owners affected by the proposals and others with an interest in the Land, and explains why powers of compulsory acquisition and temporary possession are sought in respect of each interest in land.
- Chapter 8 explains the impact that the proposals, if implemented, would have on land, rights in land and apparatus owned by statutory undertakers.



- Chapter 9 explains how human rights, in so far as those rights are of relevance to the proposals, are protected under the European Convention for Human Rights and the Human Rights Act 1998. This chapter of the Statement also considers how the proposals comply with this legislation, notwithstanding the interference with the private rights of those with an interest in the land potentially affected by the proposals.
- Chapter 10 sets out the planning policy position in relation to the proposals, and the need for the proposals.
- Chapter 11 explains that the Land proposed to be compulsorily acquired and temporarily possessed for the proposals includes some special category land (specifically common land) and proposes the application of exemptions under Section 131 of the *Planning Act 2008* to obviate the requirement for special parliamentary procedure to apply to the DCO for the proposals in relation to the compulsory acquisition of such land.
- Chapter 12 lists other consents that will or may be required in addition to the powers sought in the DCO, including consent to the inclusion of Crown land in the DCO.

1.14 The following paragraphs provide a step by step guide to enable a person with an interest in land affected by the proposals to use the DCO documentation to find out how PoTLL's proposals may affect the land in which they have an interest.

1.15 **Step 1:** Look at the **Land Plans** (document reference 2.3) and find the area (plot(s)) of land in which you have an interest.

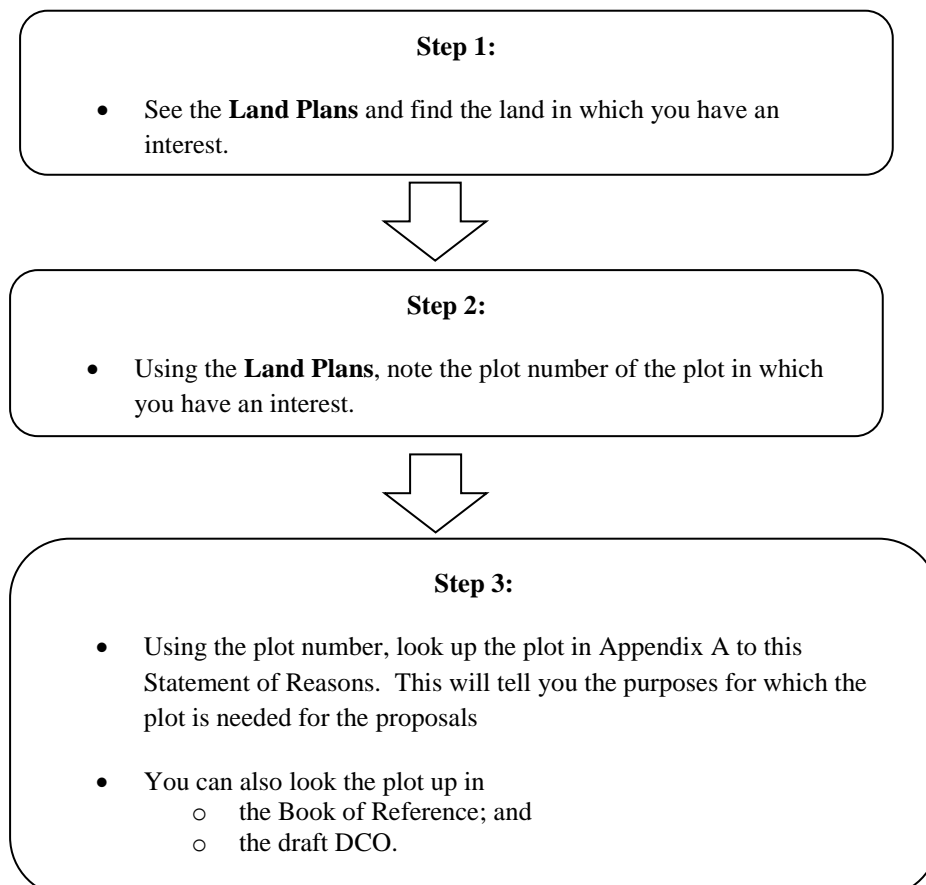
1.16 **Step 2:** Note the colour of the plot and the number of the plot.

- The **colour of the plot** will give you an initial indication of the purpose for which the land in that plot is required:
  - **pink plots** - compulsory acquisition of land
  - **yellow plots** – compulsory acquisition/extinguishment of new rights over land / imposition of restrictive covenants restricting use of land
  - **blue plots** – temporary possession and use of land
- Note the **plot number** – this will enable you to identify the land where it is referred to in other DCO documents – see Step 3 below.

1.17 **Step 3:** Use the plot number(s) to find references to the land in other DCO documents, such as:

- the **Book of Reference** (document reference 4.3) – this provides a brief description of each plot (including an approximate area measurement) and details of persons who own, lease or otherwise occupy or have an interest in the land;
- the **Statement of Reasons** (document reference 4.1– **Appendix A** of this document:
  - explains in more detail the purposes for which each plot of land is needed for the proposals and how each plot of land is proposed to be used;
  - provides cross references to the numbered Works shown on the **Works Plans** (document reference 2.4) and described in **Schedule 1 to the draft DCO** (document reference 3.1);
  - provides cross-references to the articles in the **draft DCO** which, if the DCO is made by the Secretary of State and development consent is granted, would provide PoTLL with the statutory power to use the land as proposed in the DCO documentation; and
  - provides cross-references to the Schedules in the draft DCO which set out which plots of land are required for:
    - temporary possession only (DCO Schedule 6).
- the draft **Development Consent Order** ('DCO') (application document reference number 3.1).

1.18 A condensed version of this guide appears below:



## 2.0 DESCRIPTION OF THE PROPOSALS

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### Proposals Description

- 2.1 PoTLL is proposing a new port terminal on the north bank of the River Thames at Tilbury, a short distance to the east of its existing Port. The proposed port terminal will be constructed on largely previously developed land that formed the western part of the now redundant Tilbury Power Station.
- 2.2 The project is known as “Tilbury2.” The proposed main uses on the Tilbury2 site will be a Roll-on/Roll-off ("RoRo") terminal and a Construction Materials and Aggregates terminal ("the CMAT"), and associated infrastructure including rail and road facilities and revisions to the existing marine infrastructure. An 'infrastructure corridor' is proposed that will accommodate road and rail links to the existing rail and road network. The CMAT will include stockpiling of construction materials and some processing of aggregates for the production of asphalt and concrete products.
- 2.3 The proposals will require works including, but not limited to:
- creation of hard surfaced pavements;
  - improvement of and extensions to the existing jetty including creation of a new Ro-Ro berth;
  - associated dredging of berth pockets around the proposed and extended jetty and their approaches;
  - new and improved conveyors;
  - erection of welfare buildings;
  - erection of a single 10,200sq.m. warehouse
  - a number of storage and production structures associated with the CMAT and required for its operation;
  - the construction of a new link road from Ferry Road to Fort Road and the new Port facilities;
  - formation of a rail spur and sidings.
- 2.4 A full description of the proposals can be found in chapter 5 of the Environmental Statement (document reference 6.1).
- 2.5 Schedule 1 of the DCO (document reference 3.1) and the Works Plans (document reference 2.4) set out the works required for the proposals.

## **The need for the proposals**

- 2.6 The need for the proposals has been set out within an Outline Business Case (document reference 7.1). In keeping with HM Treasury guidance this sets out the strategic, economic, commercial, financial and management case for the proposals.
- 2.7 The overall need for the scheme may be summarised as:
- the Port is nearing its efficient operating capacity, beyond which port operations become less efficient;
  - customer demand (by volume) is present and identified at the Port, and forms a key driver of the proposals;
  - customer requirements (in terms of facilities required), exemplified by demand for just-in-time deliveries create a need for expanded logistics operations; and
  - significant growth proposals for major projects in the wider region, such as Thames Tideway Tunnel, High Speed 2, Crossrail and Crossrail 2 create significant construction demand for the supply and organisation of materials.
- 2.8 The Ports National Policy Statement recognises the need for, and supports, sustainable port expansion for the benefit of the national economy and to meet the needs of importers and exporters

### **3.0 SCOPE AND SOURCE OF POWERS SOUGHT IN THE DCO TO ENABLE THE COMPULSORY ACQUISITION OF LAND AND RIGHTS OVER LAND, AND TEMPORARY POSSESSION OF LAND**

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#### **Scope of powers sought**

- 3.1 This chapter sets out the powers being sought in the DCO to enable the permanent acquisition of land, and of rights over and under land (including the extinguishment of existing rights) needed for the construction and operation of the proposals, as well as the possession and use of land on a temporary basis to facilitate the construction of the proposals.
- 3.2 It should be noted, however, that these powers are sought in the context that a large portion of the land required for the proposals is already owned by PoTLL. This land is therefore shown within the Order limits for planning purposes only (i.e. to enable the authorisation of works within it).
- 3.3 If development consent is granted for the proposals and the DCO is made by the Secretary of State, the DCO will include powers which would affect land on both a permanent and temporary basis. These powers are necessary to enable PoTLL to construct the works authorised by the DCO ('the authorised development') and for the subsequent operation and maintenance of the authorised development. The powers would also enable PoTLL to protect the authorised development, to mitigate the impacts of the authorised development where necessary, and to ensure that access could be taken as necessary to facilitate the construction, operation and maintenance of the authorised development.
- 3.4 The exercise of these powers to acquire or use land would only be possible within the Order limits, which are shown (by a red boundary line) on the Land, Crown Land and Special Category Land Plans (document reference 2.3).
- 3.5 The nature of the proposals are such that it will be necessary for PoTLL to acquire land outright, to possess and use land temporarily, and to acquire and exercise other rights over land on either a permanent or a temporary basis, as specified in the DCO and related documentation. In addition, the DCO would confer other rights and powers on PoTLL, which would allow PoTLL to interfere with property rights and private interests in land.
- 3.6 Regulation 5(2)(h) of the APFP Regulations requires a statement of reasons to be produced in support of a DCO which includes powers for the *'compulsory acquisition of land or an interest in or right over land'*.



3.7 As the justification for the exercise of all powers which would or may interfere with property rights and interests in land raises the same issues as apply to the acquisition of land and rights, this Statement, in compliance with those Regulations, explains how the powers sought in the DCO would affect each area of land within the Order limits, the reasons why such powers are necessary and how their exercise would be justified. Therefore, where the context requires, the expression 'compulsory acquisition powers' is used in this Statement of Reasons to refer to the additional powers described below, notwithstanding the fact that not all of those powers amount to a power to acquire land compulsorily, and notwithstanding the fact that the temporary possession of land is not a form of compulsory acquisition.

### **Power to acquire land compulsorily**

3.8 The main powers authorising the acquisition of land, or of interests in and/or rights over land, are contained in article 23 (compulsory acquisition of land) and 25 (compulsory acquisition of rights) of the DCO. Other compulsory acquisition powers are sought in the DCO and these similarly relate to land and may interfere with property rights and interests. The scope of these powers is set out below.

3.9 The land permanently required by PoTLL for the purposes of the proposals comprises a combination of land in the terrestrial environment and land in the marine environment within which the proposals will be constructed and operated. The land proposed to be acquired in the terrestrial environment is required for the infrastructure corridor (i.e. the road and rail links from existing networks to Tilbury2); land proposed to be acquired in the marine environment is required for the construction and operation of the marine facilities that will form the key part of the operational port.

3.10 The compulsory acquisition proposals also provide for:

- the acquisition of land that is common land, and therefore falls under the definition of 'Special Category Land' under the APFP Regulations (shown in pink with green hatching on the Land, Crown Land and Special Category Land Plans (document reference 2.3); and
- the acquisition of land that is acquired for the purposes of providing replacement land for that Special Category Land, known as the 'Replacement Land' (shown in pink with pink hatching on Land, Crown Land and Special Category Land Plans (document reference 2.3).

3.11 Further details on how the Application has sought to deal with the Special Category Land and Replacement Land can be found in chapter 11 of this Statement.

- 3.12 Where the exercise of these powers is justified, and therefore exercisable, the owner of the affected land will be entitled to compensation under the Compensation Code, where a valid claim is made out. Any dispute in respect of the compensation payable would be referred to and determined by the Lands Chamber of the Upper Tribunal.
- 3.13 **Article 23 – compulsory acquisition of land:** This article, which reflects the terms of the source of the compulsory acquisition powers in section 122 of the Planning Act 2008, would provide PoTLL with the power to acquire compulsorily so much of the land within the Order limits as is necessary to construct, operate and maintain the proposals (i.e. the authorised development), and/or the power to acquire so much of the land, or such interests in land, as is/are necessary to facilitate the authorised development, or such land as is required because it is incidental to that development. The terms of the DCO are drafted so as to enable PoTLL to also exercise a 'lesser' power, where such lesser power (for instance a power to acquire rights over land or to use land temporarily) was deemed appropriate as an alternative to compulsory acquisition.
- 3.14 **Article 26 – acquisition of subsoil and airspace only:** this article would permit PoTLL to acquire only the subsoil under or airspace over any land over which it has powers of compulsory acquisition under article 23 (such acquisition to be for the same purposes for which PoTLL would be authorised to acquire the whole of the land under that article).
- 3.15 **Article 27 – private rights over land:** this article provides for the extinguishment of private rights over land in the following circumstances:
- where land is subject to compulsory acquisition (where the land and all interests in it are acquired) (article 27(1));
  - where land is subject to the compulsory acquisition of rights over, in or under it, or made subject to the imposition of restrictive covenants, to the extent that continuing the existing rights would be inconsistent with the right acquired or restrictive covenant imposed (article 27(2)); and
  - with regard to land over which PoTLL is authorised to take temporary possession (see below for more detail) under the DCO, article 27(3) provides that all private rights over that land would be suspended and unenforceable for as long as PoTLL was in possession of such land.
- 3.16 On the Land, Crown Land and Special Category Land Plans (document reference 2.3), land which is proposed to be acquired compulsorily is shaded pink.

### **Powers to acquire permanent rights over land**

- 3.17 **Article 25 – compulsory acquisition of rights and imposition of restrictive covenants:** this article would permit PoTLL to extinguish existing rights over land and create and acquire new rights over land; and such rights would be exercisable on a permanent and/or long-term basis. This article would also give PoTLL the power to impose restrictive covenants on land. The rights and/or restrictive covenants could be acquired and/or imposed, as required by PoTLL for any purpose related to the purpose for which land was acquired under article 23. The article provides that only rights can be acquired in certain plots, and not the freehold interest.
- 3.18 **Article 29 – rights over or under streets:** this article would permit PoTLL to use the subsoil and/or the airspace under or over any street, where required to facilitate the construction of the authorised works. The power conferred by this article would not extend to a subway or an underground building, or to cellars or similar structures forming part of a building fronting the street (article 29(3)) but its exercise would nevertheless constitute an interference with property rights.
- 3.19 On the Land, Crown Land and Special Category Land Plans (Document reference 2.3), land over which new rights are proposed to be acquired, or restrictive covenants imposed compulsorily, is shaded yellow. The plots over which rights are proposed to be acquired are listed in article 25.

### **Powers to use and possess land temporarily**

- 3.20 **Article 32– temporary use of land for carrying out the authorised development:** this article would enable PoTLL to only take temporary possession of the land specified in Schedule 6 to the DCO, and to also temporarily possess any other land included within the Order limits (i.e. land to which powers of compulsory acquisition, or powers to acquire rights, apply), provided that PoTLL had not already made a declaration to vest the land in itself or to enter the land following a notice of entry in advance of acquisition.
- 3.21 Whilst using and possessing land temporarily pursuant to article 32 articles 321)(b) to (d) would enable PoTLL to:

- remove buildings and vegetation from the Land;
  - construct temporary works (including accesses) and buildings on the Land; and
  - construct certain permanent works in respect of the plots of land specified in column 2 of Schedule 6; and
  - and to construct permanent works that are mentioned in Schedule 1 to the DCO in respect of the Land.
- 3.22 The plots listed in Schedule 6 to the DCO also include land that is common land, and so also falls under the definition of Special Category Land. This is shown in blue with green hatching on the Land, Crown Land and Special Category Land Plans (document reference 2.3).
- 3.23 The period for temporary possession would be subject to time limits under article 32(3). Unless the owner of the land agreed, PoTLL would not be permitted to remain in possession:
- as regards any land specified in Schedule 6 to the DCO, for more than a year after completing that part of the authorised works specified in relation to that land in column 3 of Schedule 6; and
  - as regards any other land within the Order limits, for more than a year after completing the work for which temporary possession was taken (unless before the end of that period PoTLL has made a general vesting declaration or served notice of entry).
- 3.24 The effect of Article 32(4) is to ensure that before giving up possession of any land used temporarily, PoTLL would be obliged to remove all temporary works and to restore the land to the owner's reasonable satisfaction. This restoration obligation would not, however, require the replacement of a building or structure removed under this article, nor would it require the restoration of land on which permanent works had been constructed (where the land was possessed temporarily in the first instance), or the removal of any ground strengthening works or the removal of any measures installed over or around statutory undertakers' apparatus for the protection of that apparatus.
- 3.25 On the Land, Crown Land and Special Category Land Plans (document reference 2.3), land which is proposed to be used and possessed temporarily is shaded blue. The purpose for which such land is proposed to be possessed and used temporarily is set out in Schedule 6 to the DCO.
- 3.26 **Article 33 – temporary use of land for maintaining the authorised development:** this article would enable PoTLL to take temporary possession of any land within the Order limits, which is reasonably required for the purpose of maintaining the development at any time

during the maintenance period (i.e. a period of five years from the date on which that part of the authorised development was opened for use).

- 3.27 Article 33(1)(c) would permit PoTLL to construct temporary works and buildings on the land, in so far as it was reasonably necessary to do so for the purpose of carrying out maintenance works.
- 3.28 The power in article 33 would not enable PoTLL to take temporary possession of a house, or a garden belonging to a house, or any other occupied building (article 33(2)).
- 3.29 PoTLL would only be authorised to remain in possession of land under article 33 for so long as was reasonably necessary to carry out the maintenance of the part of the authorised works for which temporary possession of land was taken (article 33(4)).
- 3.30 Before surrendering possession of the land and returning it to its owner, PoTLL would be required to remove all temporary works on the land and to restore the land to the owner's reasonable satisfaction.

### **Special Category Land**

- 3.31 **Article 37 - Special Category Land:** Under this article, PoTLL is unable to use its temporary possession or compulsory acquisition powers over any of the Land which is Special Category Land that is proposed to be compulsorily acquired (i.e. it is shown pink with pink hatching on the Land, Crown Land and Special Category Land Plans) without first vesting the Replacement land in the persons in whom the Special Category Land was vested, subject to the same rights, trusts, and incidents as attached to that Special Category Land.
- 3.32 The same restriction does not apply to the use of temporary possession powers on the Special Category Land that falls within the plots listed in Schedule 6 of the DCO, as are shown blue with green hatching on the Land, Crown Land and Special Category Land Plans (document reference 2.3).

### **Other rights and powers**

- 3.33 The DCO would also confer on PoTLL other rights and powers the exercise of which may result in interference with property rights and private interests in land. These additional powers are:
- 3.34 **Article 12 – permanent stopping up of streets and private means of access:** this article enables PoTLL to permanently stop up specific streets and private means of access, with certain of those identified needing to be substituted before being stopped up;
- 3.35 **Article 13 – temporary stopping up and restriction of use of streets:** this article permits PoTLL to temporarily stop up, alter, divert or restrict the use of streets for the purposes of the development, whilst ensuring that pedestrian access is maintained;



- 3.36 **Article 8– street works:** this article would confer authority on PoTLL to interfere with and execute works in or under any streets for the purposes of the authorised development;
- 3.37 **Article 14 – access to works:** this article allows works accesses to public highways to be created. It gives PoTLL a general power to form means of access;
- 3.38 **Article 18 – discharge of water:** this article sets out the circumstances in which PoTLL is entitled to discharge water into a sewer, watercourse or drain, and its purpose is to establish statutory authority for doing so;
- 3.39 **Article 20 – authority to survey and investigate land:** this article gives PoTLL the power to enter certain land for the purpose of surveying and testing. It provides that PoTLL must give 14 days’ notice before exercising the powers of entry, and that compensation is payable for any loss or damage caused;
- 3.40 **Article 28 – power to override easements and other rights:** this article permits PoTLL to override easements and other rights such that land vested in PoTLL would be discharged from all rights, trusts and incidents to which it was previously subject at the point of vesting, together with the benefit of restrictive covenants and instances where land subject to third party rights is acquired by agreement rather than through compulsory acquisition;
- 3.41 **Article 21 – felling and lopping of trees:** this article would permit any tree or shrub that is near the development to be felled or lopped, or have its roots cut back by PoTLL if it is considered to obstruct the construction, operation or maintenance of the proposals or endanger anyone using it. Compensation is payable for any loss or damage caused.
- 3.42 **Article 19 – protective works:** this article provides a power to monitor certain buildings and structures (included within the Order limits) for effects arising from the construction of the authorised works; and to carry out protective works where necessary to mitigate the effects of such effects. This power applies throughout the Order limits
- 3.43 Appendix C to this Statement of Reasons explains where streets are proposed to be permanently stopped up pursuant to the DCO, where streets are proposed to be subject to prohibition of use through permanent traffic regulation measures, where private means of access are proposed to be stopped up, and where alternative routes or accesses are also proposed to be substituted.
- 3.44 All the above-mentioned articles in the DCO, which would provide powers enabling PoTLL to acquire land permanently or to use land temporarily, are required to enable the construction, operation and maintenance of the proposals.



## **4.0 DESCRIPTION OF LAND AND RIGHTS AFFECTED BY AND IN THE VICINITY OF THE PROPOSALS**

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### **Introduction**

- 4.1 This chapter describes the land which is proposed to be subject to the compulsory acquisition powers that are sought in the DCO. This land is shown on the Land, Crown Land and Special Category Land Plans (document reference 2.3) and the works for which the land is required are represented on the Works Plans (document reference 2.4). Short textual descriptions of each numbered plot shown on the Land Plans together with details of ownership are set out in the Book of Reference (document reference 4.3).

### **Location**

- 4.2 The proposals would be wholly located within the administrative area of Thurrock Borough Council, a unitary authority. The boundary of Thurrock is located in the centre of the River Thames, to the south of which is the neighbouring authority of Gravesham Borough Council, a lower tier authority within the county of Kent.
- 4.3 They are also partly located within the River Thames, and so are also within the jurisdiction of the Port of London Authority (as amended by the draft DCO).
- 4.4 The Tilbury2 site (as defined below) is some 9km to the east of the Dartford Crossing on the M25 and the outer areas of the London conurbation and is, at its closest, some 820m from the eastern boundary of the existing Port operational area. The town of Tilbury lies to the north west of the site and the town of Gravesend is located directly opposite on the other side of the River Thames.
- 4.5 A map of the area can be seen in Figure 4.1 below:

### **Figure 4.1: Map of Area**



4.6 The land bound by the proposed Order limits comprises four areas, namely:

- the main site of the new port facility on the former Tilbury Power Station land ("the Tilbury2 site");
- sections of the tidal Thames required for the construction of expanded berthing capacity and associated dredging;
- an infrastructure corridor to the main site between Ferry Road and Fort Road; and
- Land around the roundabout to the north of the Port ("the ASDA roundabout") where highway improvements may be required.

#### **Existing uses – Tilbury2 site**

4.7 The Tilbury2 site comprises approximately 61 hectares (152 acres) of the western part of RWE's former landholding at the former Tilbury Power Station. RWE are retaining the 'B' Station land to the east of the site for potential future power generation. PoTLL are the freehold owners of the Tilbury2 site.

4.8 The Tilbury2 site itself is divided by an access road which runs east-west, known as 'Substation Road'.

4.9 To the north of Substation Road is land in part used for the open storage of new motor vehicles by Hyundai. PoTLL was granted temporary planning permission for 5 years for this use in September 2016 by Thurrock Council (LPA reference 16/00848/FUL). The remainder of the land north of Sub-Station Road is largely brownfield land with areas of plantation woodland and developing scrub although there are some areas of relic grazing marsh. Parts of the northern area were formerly used to manufacture 'Lytag' blocks as a by-product of fuel ash from the power station. To the north-east of this area is land formerly used for agriculture, but more recently appropriated by RWE

for advance habitat creation to provide compensatory habitat for water voles, reptiles and other species in anticipation of the loss of the Tilbury Energy and Environment Centre (TEEC) site and adjoining areas to a power station development that was subsequently shelved.

- 4.10 In the north-west corner of the Tilbury2 site, close to the main site access, is an operational electricity sub-station (Tilbury Town Sub-station) which is leased to UK Power Networks (UKPN). No works will be undertaken in this area as part of the proposals and the facility will remain operational throughout construction and operation of Tilbury2.
- 4.11 To the south of Substation Road, the site comprises land that formerly accommodated the Tilbury 'A' power station and areas previously used for coal storage and ancillary buildings and land including the former TEEC which was an educational facility run by RWE and which showcased examples of brownfield habitats and reedbed. Apart from a number of small structures (see below) all buildings and operational structures have now been demolished. An area of 4.96ha is the subject of a further temporary planning permission for the storage of new motor vehicles for five years, granted by Thurrock Council in June 2017 (LPA reference 17/00560/FUL).
- 4.12 The Tilbury2 site is accessed directly using Substation Road from Fort Road immediately south of a road bridge where Fort Road crosses the railway line. The access to the site forms a simple priority junction with Fort Road. The access road links to Substation Road within the site and a network of other internal roads.
- 4.13 Vegetation on the site comprises areas of skeletal grassland on hard-standings or artificial substrates, established grassland in part derived from relic grazing marsh, areas of scrub and plantation woodland and smaller areas of swamp and wetland habitat. Details of the vegetation on the site are discussed further in Chapter 10 below. A number of drainage channels pass across the site and along its boundaries. There is little variation in the topography of the site, which is between 1.5 and 3.5m AOD.
- 4.14 That part of the tidal Thames within the Order Limits includes an area of inter-tidal habitat along the site frontage itself and an extent of the river. The riverbed slopes from the frontage of the site to a depth of circa 10m at the southern boundary.

#### **Existing uses – Infrastructure Corridor**

- 4.15 The infrastructure corridor comprises a number of different land use types immediately adjoining the existing railway corridor.
- 4.16 At its eastern end, the land includes Fort Road itself. Immediately to the west of Fort Road is an area of scrub, beyond which is a small industrial/depot site containing a number of small single storey storage buildings and an area of external vehicle and plant storage.

- 4.17 At its western end, the corridor includes part of Ferry Road and its environs, land occupied by an existing rail siding and operational land used by the Port for external storage (presently for imported new motor vehicles) known as the 'Fortland' site, and a narrow corridor of landscaping between this and the railway itself.
- 4.18 Between these two developed areas at either end of the corridor is an area of land typically used for fly grazing of horses (albeit not on a legal basis). The eastern end is open and unfenced whereas the remainder is largely fenced, preventing access to the land for any form of recreation.

#### **Existing uses - Asda Roundabout**

- 4.19 The Order limits include land at and around the roundabout immediately to the north of the Port adjoining the ASDA supermarket. This is a five-arm roundabout that links the A1089(T) to the Port via St Andrews Road. It also provides access to London Distribution Park to the east and the town of Tilbury to the south. To the west, the roundabout provides access to Thurrock Parkway (an industrial area that also accommodates the ASDA supermarket) and the ASDA supermarket itself. Some modification to the geometry of this roundabout may be needed in order to mitigate the impact of additional traffic generated by Tilbury2 on the highway network.

#### **Public rights of way**

- 4.20 There are public rights of way (PRoWs) within and close to the Order Limits. FP146 routes east – west within the Order Limits along the river front, to the south of the flood defence and to the north of the existing jetty, access to which crosses over it. FP144 routes south from the built up area of Tilbury, from The Beeches (close to its junction with Hume Avenue), along the rear of properties on Brunel Close, before crossing the existing railway at an unmanned (pedestrian only) level crossing. It then routes west – east within the proposed infrastructure corridor before routing south alongside the Port's operation toward Fort Road and the riverside.
- 4.21 Other pedestrian facilities are limited on Fort Road as it crosses the railway line. Ferry Road benefits from both pedestrian and segregated cycle facilities which route from a bridge over the A1089 known as the 'Hair Pin Bridge' to the Tilbury Cruise Terminal and the Tilbury – Gravesend Ferry.

#### **Services/Utilities**

- 4.22 A number of existing utility services lie within the area of the proposals and some would be affected by the authorised works in that they would be required to be diverted or re-aligned. Such diversion or re-alignment may not be wholly contained within the land to be acquired and in such cases PoTLL will take temporary possession of land in order to undertake the works. The proposals may also affect existing minor



private utility supplies and also services and utilities such as telecommunications cables that are anticipated to be diverted within the highway boundary within the infrastructure corridor.

- 4.23 Descriptions of the diversion / accommodation works which will need to be carried out are set out in Chapter 8 of this Statement, which provides information about the impacts of the proposals on statutory undertakers' land, rights and apparatus.

#### **Diligent inquiry process/methodology**

- 4.24 As required in accordance with the Act, PoTLL was required to identify individuals in one or more of the categories set out in sections 44 and 57 of the Act. This included undertaking "diligent inquiry" to identify parties within Categories 1, 2 and 3, as defined in sections 44 and 57 of the Act. Category 1 includes owners, lessees, tenants and occupiers of the land within the Order limits. Category 2 includes parties that are interested in the land or have the power to sell, convey or release the land within the Order limits. Category 3 includes parties who PoTLL thinks would or might, if the Order sought by the application were made and fully implemented, be entitled to make a relevant claim for compensation under section 10 of the Compulsory Purchase Act 1965 and/or Part 1 of the Land Compensation Act 1973 and/or section 152(3) of the Act.

- 4.25 A professional land referencing firm was employed to undertake diligent inquiry to identify these land interests. The following processes were undertaken as part of the methodology to identify and consult with those with an interest in affected land. This is set out more fully in Chapter 6 and Appendix 4 of the Consultation Report (document reference 5.1).

#### Setting the Land Referencing Limits ("the Land Referencing Limits")

- 4.26 The Land Referencing Limits were set to include the following:



- All land within the Order limits required for the proposals; and
- All residential properties and community buildings that were identified as having a potential “relevant claim” as a Category 3 interest, based on the noise 'contours' that were developed for the proposals, which created a 'zone' in which properties and affected interests were identified (which were sufficiently wide to also incorporate those who could potentially make a claim in relation to effects from vibration, smell, fumes, smoke, artificial lighting and discharge; and those who could make a claim under section 10 of the Compulsory Purchase Act 1965) – this was 600 metres from the Order limits for the infrastructure corridor, 1 metres kilometres north of the Tilbury2 site boundary, and 1.5 kilometres south of the Tilbury2 site boundary. This zone did not change as the design developed.

4.27 For the purposes of the Book of Reference (document reference 4.3), the limits were then adjusted to include all of any building partially covered within the above Land Referencing Limits. This included all land over which rights were sought within the red line boundary and all properties identified as potentially eligible to make a relevant claim.

#### Desktop Referencing – HM Land Registry

4.28 Land Registry data was received in the form of a digital shape file (a GIS layer) and digital copies of the Official Copy Registers and Title Plans. All relevant freehold, leasehold, mortgagee, beneficiary, other charges and restrictive covenant information was extracted and stored in a land referencing database.

4.29 From this data, landownership parcels were created. The landownership parcels were drawn to reflect unique ownership information and stored spatially on a GIS application.

4.30 Where land was not registered, additional parcels to complete these gaps were created based on OS mapping and site data. As a result all land within Land Referencing Limits was parcelled and given unique reference numbers.

4.31 Periodic updates were provided by Land Registry and this ensured that any changes that occurred to title were captured. Such updates were made prior to Section 42 consultation and prior to the submission of the Book of Reference (document reference 4.3) as part of the application documentation.

4.32 Requests to Thurrock Borough Council were also made to access the Council's land ownership terrier mapping; information regarding public highways and private roads; information about special category land (including open space, commons, fuel and field garden allotments); and any information relating to extant planning permissions, where relevant. Information was received in a variety of formats and entered into the

GIS as appropriate. Where necessary, further enquiries were made to address any changes, anomalies or gaps. In particular the adopted highway boundaries were provided from the council highways team. This allowed identification and confirmation of the adopted highway boundary.

- 4.33 Statutory utilities that were believed to have a possible interest in the area were contacted to identify their interests. Information received was entered into the GIS as appropriate and where necessary further enquiries were made to address changes, anomalies or gaps.
- 4.34 Any existing information or stakeholder data gained by PoTLL as a result of property negotiation or Section 42 consultation was incorporated accordingly.

#### **Other land referencing activities**

- 4.35 Consultation with landowners has been ongoing throughout the development of the proposals. The identification of potentially affected parties has been an ongoing process since February 2017 above and beyond the desktop searches explained above. This included checking all company addresses at Companies House to ensure the correct address was being used. The registered address was used unless advised differently by the affected party.
- 4.36 In March 2017 formal land referencing questionnaires were issued to all identified affected parties within the Order limits. In April 2017 formal land referencing questionnaires were issued to all identified potentially affected parties outside of the Order boundary, and to statutory undertakers within the Order boundary. Telephone numbers and email addresses were provided on the letter which accompanied the land referencing questionnaires, allowing parties to make contact if they sought further information on the proposals.
- 4.37 This was followed by a further round of formal land referencing questionnaires for parties who were yet to respond in April 2017 and in May 2017. Where there was unregistered land within the Order boundary, site notices were affixed on or adjacent to the land in order to notify any unregistered interested parties of the proposals. Where there was unregistered properties outside of the Order boundary in Tilbury and Gravesend, site visits were conducted which involved visiting residences and door knocking to attempt to identify landowners.
- 4.38 Special attention was also taken to identify parties who had an interest in the common land within the Order boundary through a variety of desktop searches. Formal land referencing questionnaires were also sent to these parties in May 2017, as well as site notices and public and press notices. Ongoing discussions also occurred with the Clerk of the commoners and the land agent acting on behalf of the owners of the common land. Further details on this process are set out in chapter 11 of this Statement.

- 4.39 In June 2017 a further round of formal land referencing questionnaires was sent to statutory undertakers within the Order boundary, and site notices were checked and replaced as necessary.
- 4.40 The combination of the above land referencing activities produced a list of interests for the initial round of statutory consultation under the 2008 Act, which commenced in June 2017. Parties were provided with a letter, a plan and a consultation booklet. They were given an opportunity to put forward comments and requests in relation to the proposals, with a response period of at least 28 days.
- 4.41 In September 2017 a Land Registry refresh of titles was carried out to verify the current registered proprietors and identify any changes in ownership that had occurred since titles were first downloaded. Any parties newly identified through this process were sent Requests for Information in which they could confirm the extent of their interest and identify any other interests that had not yet been obtained through the land referencing process. They were also invited to make comments on the statutory consultation materials on the Tilbury2 website.
- 4.42 Throughout this process, all information secured was recorded in the land referencing database and GIS.

## 5.0 PURPOSE FOR WHICH THE COMPULSORY ACQUISITION AND TEMPORARY POSSESSION POWERS ARE SOUGHT

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### **Statement of the overall purpose of seeking powers of compulsory acquisition and temporary possession**

- 5.1 In broad terms, the purpose for which compulsory acquisition and temporary possession powers are sought is to enable PoTLL to construct, operate and maintain the proposals. The need for the proposals is explained in the Outline Business Case (document reference 7.1) submitted with the DCO application. For that purpose, it is necessary for the DCO to include a range of compulsory acquisition powers (see section 3 above).
- 5.2 Without the powers to acquire rights and interests in land compulsorily (required as explained on a plot by plot in Appendix A to this Statement) there would be insufficient certainty about PoTLL's ability to deliver the proposals in totality and within the necessary timescale. PoTLL therefore requires such powers to be included in the DCO, notwithstanding its historical and on-going efforts to acquire the necessary interests in land and acquisition/extinguishment of rights by agreement (as explained by reference to landholdings in Appendix B to this Statement).
- 5.3 Following on from its relatively recent acquisition of the Tilbury2 site in early 2016, PoTLL has been in negotiations with adjacent landowners as its proposals for Tilbury2 have developed; with the continuing aim of negotiating to acquire by agreed private treaty the land and rights needed to construct and operate Tilbury2.
- 5.4 At this stage, all the land included in the Order land is considered to be necessary to enable the delivery of the proposals; however, due to the nature of the design process and the timing of the consenting process, PoTLL requires a degree of flexibility as to where certain sections of the proposals can be constructed within the defined limits of deviation which are provided for in the draft Order. PoTLL is satisfied that all the land included in the Order land is necessary to enable the delivery of the proposals.
- 5.5 However, it may transpire in due course that some part of the Order land is not required, for instance as a result of the detailed design process; in which case it would not and indeed could not be acquired by the use of compulsory acquisition powers. Further, it may transpire that a parcel of land for which compulsory acquisition powers have been sought has been acquired by agreement as a result of successful negotiations and in those circumstances compulsory acquisition powers would not be exercised. In both cases in respect of such land the exercise of compulsory acquisition powers would be neither necessary nor justified.

## Land in the marine environment

- 5.6 For the land proposed to be acquired in the marine environment, and where there are existing structures, it is proposed to acquire the river bed as well as the structures on the surface of the water, and for sufficient room for piling through multipiles if necessary. This land is owned by the Port of London Authority, the Crown Estate and Anglian Water.
- 5.7 This is because PoTLL proposes, as part of its DCO, to be the harbour authority for this area, and that through the DCO, and more specifically, the protective provisions for the benefit of the Port of London Authority, it is not envisaged that further River Works Licences will be required for the construction and on-going maintenance of Tilbury2 within the area proposed to be acquired, especially for those proposed and existing structures whose foundations sit (or will sit) within the river bed.
- 5.8 In respect of Anglian Water, as part of the proposals, their existing jetty will be removed from the river bed and replaced with berthing structures required for Tilbury2. Compulsory acquisition is therefore proposed for Anglian Water's interests in the structures that are in the river that will be required for the operational port.
- 5.9 PoTLL have been having on-going negotiations with the Port of London Authority in respect of the interaction of the DCO, Anglian Water's existing river works licence, and the compulsory acquisition and temporary possession powers that are proposed to form part of the Application, and it is envisaged that an agreement can be reached such that these powers may not be required. For the reasons expressed above and below, however, the powers of compulsory acquisition are still included within the DCO to ensure that these marine works, which are vital to the successful operation of the proposed port, are able to be delivered in a timely manner.
- 5.10 One plot of land proposed to be acquired and one plot proposed to be temporarily possessed are owned by the Queen's Most Excellent Majesty in right of her Crown, managed by the Crown Estate Commissioners. As such it is 'Crown Land' under the Act and the APFP Regulations.
- 5.11 By virtue of section 135 of the Planning Act 2008, PoTLL is unable to compulsorily acquire Crown Land; and such land cannot be included within the DCO (such that all other interests in it can be compulsorily acquired and that the DCO's works powers can be exercised over the land) unless the appropriate Crown authority (in this case the Crown Estate) consents to its inclusion.
- 5.12 PoTLL has been in active discussions with the Crown Estate Commissioners to obtain this consent; and although this has not yet been received, it is expected to be received before the end of Examination. As such, the land has been included within the DCO

application. Further explicit protection for the Crown has been included within the DCO at article 55.

- 5.13 The use of temporary possession powers within the marine environment are also proposed in order to provide working space for the marine infrastructure that forms part of the proposals, and for the removal of the existing Anglian Water jetty.
- 5.14 Further details on the specific purpose for which PoTLL requires each parcel of land within the marine environment is set out in Appendix A to this Statement.

### **Infrastructure Corridor**

- 5.15 Land is proposed to be compulsorily acquired and temporarily possessed within the infrastructure corridor in order to facilitate the construction and operation of:

- a new road link between St Andrew's Road and the Tilbury 2 site;
- modifications to the existing highway network at Ferry Road and at Fort Road (including a new bridge structure and supporting embankments for the latter);
- a new road between Fort Road and the new link road;
- a new rail link between the London to Tilbury railway line and Tilbury2 (including sidings);
- environmental mitigation including noise barriers, landscaping and ecological measures; and
- the stopping up of a level crossing,

to the extent that such land is not already owned by PoTLL.

- 5.16 The area also includes the provision of the Replacement Land, which is located adjacent to the Special Category Land that is required for the above-mentioned infrastructure.
- 5.17 Further details on the specific purpose for which PoTLL requires each parcel of land within the Order limits within this area is set out in Appendix A to this Statement.

### **Asda Roundabout**

- 5.18 Temporary possessions powers only are proposed to be utilised at the Asda Roundabout site, in order to facilitate highway improvements at this location.
- 5.19 Upon completion of the works the land would be returned to landowners and Highways England as highways authority for the roundabout.

## **Rights**

- 5.20 The Order limits include the proposed extinguishment of rights held by Anglian Water in relation to the maintenance and use of a sewer within the Tilbury2 site, to enable the sewer to be removed as part of the development of the CMAT and associated rail infrastructure.
- 5.21 The right in question is a property right held by Anglian Water, as opposed to apparatus owned as part of their statutory undertaking.
- 5.22 Negotiations have been held with Anglian Water in respect of this proposed extinguishment as part of wider discussions in relation to the interaction of Anglian Water infrastructure with the proposals; and it is anticipated that a settlement will be able to be reached. However, in the absence of certainty that this is the case, the extinguishment has been included within the DCO application.
- 5.23 The Order limits also include the proposed compulsory acquisition of rights in respect of land held by Network Rail Infrastructure Limited (Network Rail); in order to provide a connection between the proposed rail siding and the main London to Tilbury rail line.
- 5.24 Negotiations have been held with Network Rail in respect of this proposed imposition as part of wider discussions in relation to the interaction of Network Rail infrastructure with the proposals; and it is anticipated that a settlement will be able to be reached. However, in the absence of certainty that this is the case, the acquisition of a right has been included within the DCO application to enable rail freight from the Tilbury2 site to physically access the main rail network.

## **Scope and Content of Appendix A**

- 5.25 The first column of the table in Appendix A refers to the plot numbers used in the Land, Crown Land and Special Category Land Plans (document reference 2.3) and Book of Reference (document reference 4.3) to identify plots of land within the Order limits.
- 5.26 The second column in the table identifies and describes, in summary terms, the actual purpose for which each plot of land is proposed to be acquired or used.
- 5.27 The third column in the table states the relevant Work Number for the purpose of which the plot of land is required. The Work Number ('Work No') is the identification number (e.g. Work No.1; or Work No.5; or Work No.3 of a particular element of the proposed development which, if the DCO were made by the Secretary of State, would be authorised - such authorised development being described and numbered in Schedule 1 to the DCO (document reference 3.1).
- 5.28 In addition, Schedule 6 to the draft DCO includes details of all the plots over which powers of temporary use and possession are sought. Schedule 6 (temporary possession) sets out, on a plot by plot basis,



details of the purposes for which such powers are required PoTLL to construct, operate and maintain the proposals.

### **Guide to DCO documentation**

- 5.29 The Introduction (Chapter 1) to this Statement provides a step by step guide to enable a person with an interest in land affected by the proposals to use the DCO documentation to find out how PoTLL's proposals may affect the land in which they have an interest. Please see that guide for information about how to navigate between the various DCO documents such as the Land, Crown Land and Special Category Land Plans (document reference 2.3), the Book of Reference (document reference 4.3), this Statement of Reasons) (in particular Appendix A of this Statement) and the draft Development Consent Order ('DCO') (document reference 3.1).

## 6.0 JUSTIFICATION FOR SEEKING POWERS OF COMPULSORY ACQUISITION AND TEMPORARY POSSESSION

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### Introduction

6.1 This chapter sets out the condition which must be met for compulsory acquisition powers to be granted under the Act and explains how the proposals meet these conditions. It sets out the case for constructing and operating Tilbury2 and the alternatives which were considered as the proposals which are the subject of the Application evolved. It then sets out proposals for ensuring fair compensation and certainty of funding.

### Compulsory acquisition powers subject to the conditions in section 122 of the Planning Act 2008 being met

6.2 Section 122 of the Act provides that an order granting development consent (i.e. a DCO) may only authorise compulsory acquisition if the Secretary of State, in his capacity as decision-maker, is satisfied that two conditions have been met.

6.3 The first of those two conditions (which is set out in section 122(2)) requires one or more of the following three criteria to be met:

- that the land is required for the development to which the development consent relates;
- that the land is required to facilitate, or is incidental to, that development; or
- is replacement land which is to be given in exchange for the order land under section 131 or 132.

6.4 The second condition (set out in section 122(3)) is that there is a compelling case in the public interest for the land to be acquired compulsorily.

### Matters on which the Secretary of State must be satisfied, before making a DCO including powers of compulsory acquisition:

6.5 The Secretary of State must be satisfied (before making the DCO) that the land identified within the Order limits is needed for the development and no more land is proposed to be taken than is reasonably required.

6.6 Planning Act 2008: DCLG Guidance related to procedures for the compulsory acquisition of land (issued in September 2013) ('the 2013 DCLG Guidance') makes it clear (at paragraph 11) that, in order for the first of the three above-mentioned statutory criteria to be met, an applicant for development consent should be able to demonstrate to the satisfaction of the Secretary of State that the land in question is needed

for the development for which consent is sought. The 2013 DCLG Guidance explains that the Secretary of State will need to be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development.

- 6.7 The 2013 DCLG Guidance also explains (at paragraph 11) that for the second of these three criteria to be met, the Secretary of State would need to be satisfied that the development could only be delivered to a satisfactory standard if the land in question were to be compulsorily acquired (assuming it could not be acquired by agreement), and that the land to be taken is no more than is reasonably necessary for that purpose, and that the purpose is proportionate.
- 6.8 For the reasons set out in this Statement, PoTLL considers that the conditions in section 122 are met, in that, firstly, there is a compelling case in the public interest for the construction and operation of the proposals which would justify the compulsory acquisition of land identified in the draft DCO. Secondly, PoTLL considers that there are sound reasons why the Secretary of State can be satisfied that the land identified within the Order limits is needed for the development comprising the proposals; that no more land is proposed to be acquired than is reasonably required for the purposes of the proposals; and that the proposals could only be delivered to a satisfactory standard within a reasonable timescale if the powers of compulsory acquisition sought in the draft DCO were granted to PoTLL.
- 6.9 Chapter 11 below sets out in detail special considerations affecting the Order land, but for the purposes of the conditions in section 122 on which the Secretary of State must be satisfied, PoTLL considers that it has provided sufficient (both in extent and nature) Replacement Land under sections 131 or 132 of the Act, in exchange for the Special Category Land.

#### **Requirement for the DCO land (section 122(2))**

- 6.10 PoTLL has a clear idea of how the land is intended to be used. In order to assist the Secretary of State in determining whether the first of the above-mentioned conditions is met, this Statement sets out – at Appendix A – the particular purposes for which each plot of land is proposed to be compulsorily acquired or used temporarily. The table in Appendix A demonstrates, as advocated by the 2013 DCLG Guidance (at paragraph 9), that PoTLL has "*a clear idea of how [it intends] to use the land which [it proposes] to acquire.*" PoTLL has included within the Order limits no more land than is reasonably required for the purposes described in the table in Appendix A, such that its proposed use of land, for the purpose of delivering the proposals, is proportionate and justifiable.
- 6.11 In making the application for the draft DCO, including the seeking of powers to acquire land compulsorily and to use land temporarily, PoTLL

has had regard to the relevant provisions of the European Convention on Human Rights (see Chapter 9 below).

- 6.12 In particular, as is explained in detail in Chapter 9 of this Statement of Reasons, PoTLL has given consideration to the purposes for which the land is required, namely the delivery of the proposals, in the context of the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and Article 8 of the Convention. The particular reasons why the proposed acquisition of land and interference with private property rights are considered to be legitimate and proportionate, and therefore justified, are set out in section 9 below, and are matters on which the Secretary of State will need to be satisfied in deciding whether powers of compulsory acquisition should be included in any grant of development consent for the proposals.
- 6.13 Together with this Statement, the Land, Crown Land and Special Category Land Plans (document reference 2.3) and the Book of Reference (document reference 4.3) show how and why the land included in the draft DCO is required and how such land would be used. In the case of each plot of land, the powers sought by PoTLL are necessary to deliver the proposals and are proportionate to the degree of interference with any private rights.
- 6.14 PoTLL is seeking to acquire by agreement land and rights in land for the purposes of the proposals, and will continue to seek such acquisitions as the application for the DCO is progressed. PoTLL has engaged in extensive consultation and negotiations (as explained in Appendix B to this Statement, with all persons with an interest in the relevant land in order to try to avoid the need for compulsory acquisition wherever possible.
- 6.15 PoTLL's approach, which combines attempts to acquire land by agreement with the planning, in parallel, of a compulsory acquisition timetable as a contingency measure, and with taking action to initiate formal compulsory acquisition procedures, is in accordance with the 2013 DCLG Guidance and the recently issued *DCLG Guidance on compulsory purchase process and the Crichel Down Rules for the disposal of surplus land acquired by, or under threat of, compulsion* (October 2014) ('the 2015 DCLG Guidance').
- 6.16 In the context of the 2013 and the 2015 DCLG Guidance, PoTLL will continue to seek to acquire land by agreement, but will also seek powers of compulsory acquisition through the DCO, with the objective of enabling delivery of the proposals within a reasonable timescale and within the allocated budget, in the event that this cannot be achieved through acquisition by agreement.
- 6.17 The rationale for including powers of compulsory acquisition in the DCO takes into account the following considerations:

- an option to acquire might be obtained by agreement prior to the making of the DCO, but this would not provide PoTLL with the land itself. The powers of compulsory acquisition would therefore be available should any voluntary agreements fail, and would prevent impediments to implementation of the proposals arising in the event that a person with an interest in land was unwilling to sell the land or grant the relevant interest in land once the option had been exercised;
- the inclusion in the DCO of all the land required for the proposals would allow PoTLL to acquire land compulsorily by way of one or more general vesting declarations, which would be in the public interest, in that it would provide an economic, timely and efficient approach to land assembly; and
- the use of general vesting declarations to acquire the land would enable PoTLL to acquire any interests in land the owners of which it had not been possible to identify through diligent inquiry, thereby reducing uncertainty and the risk of impediments arising to the implementation of the proposals.

### **Options Assessment in relation to the Land**

- 6.18 As discussed above, the compulsory acquisition and temporary possession proposals constituted within the proposals relate to two key aspects - the infrastructure corridor that links the Tilbury2 site to the existing road and rail networks, and the river bed within which the proposed marine infrastructure is proposed to sit.
- 6.19 The consideration of alternative options in respect of these compulsory acquisition proposals must therefore consider three points:
- the choice to build Tilbury2 in the suggested location (and thus requiring the infrastructure corridor to exist and the river bed at this location required to support the marine infrastructure);
  - the options that have been considered in respect of the design and routing of the infrastructure corridor and associated mitigation; and
  - the factors that determine the extent of marine infrastructure (and thus river bed) that is required.

### **Location of Tilbury2**

- 6.20 As is set out in chapter 6 of the Environmental Statement (document reference 6.1) and the Outline Business Case (document reference 7.1), the current Port of Tilbury is nearing its efficient operating capacity, beyond which port operations become less efficient, within the current port area within reach of its existing deepwater berths. This is despite on-going expansion and rationalisation with its existing land.

- 6.21 With an increasing prevalence of port-centric logistics, production facilities and key sectors such as re-cycling and aggregates; access to a deep water berth is crucial to maintaining the economic benefits of the Port of Tilbury, and ensuring it can expand as a nationally important asset to meet market demands. Thus, a land only site would not be sufficient to meet expansion requirements.
- 6.22 As set out in Chapter 6, there are sound operational and synergistic reasons why the Tilbury2 proposals need to take place in close proximity to the existing Port.
- 6.23 In this local area, however, expansion location options are limited. Expansion along the river frontage to the west (upstream) is constrained by existing residential development and thus is not a potential alternative. Expansion immediately to the east of the existing cruise terminal (downstream) is also not possible due to the presence of Tilbury Fort, a nationally important heritage asset and ancient monument and is therefore not a potential alternative.
- 6.24 Aside from the intervening operational Tilbury Water Recycling Centre (which is not available for redevelopment), the Tilbury2 site is therefore the closest land to the existing Port operational area that can be utilised to allow for increased berthing capacity and throughput at Tilbury.
- 6.25 Moreover, another benefit of the Tilbury2 site is that it is largely previously developed land and, aside from an area of 1.32ha, development can be accommodated outside of the Green Belt, a designation which applies to the majority of open land in proximity of the existing Port of Tilbury.
- 6.26 As such, the Tilbury2 site is the optimum location for the expansion of the Port of Tilbury.

### **Infrastructure Corridor**

#### Road

- 6.27 A Surface Access Options Report is attached as an appendix to the Masterplanning Statement (document reference 6.2.5A). It explains the design rationale that has led to the road and rail proposals that are now being assessed. Its conclusions also demonstrate why the road link is necessary.
- 6.28 This includes consideration of why a new highway is proposed, as opposed to upgrading of the existing Fort Road (and thus potentially avoiding the extent of compulsory acquisition requirements); and the detailed options that were considered for the interaction with the existing highway network at either end of the corridor, including consideration of effects on land ownership and the Special Category Land, which is most relevant at the eastern end (given the western end is mostly in PoTLL ownership):

- the existing highway is inappropriate for the likely traffic levels, and so radical changes to its alignment would have been necessary (which would also have involved compulsory acquisition) to ensure it could be a safe and geometrically sound routed;
- the potential increased changes in traffic at Fort Road would have been detrimental to the setting of Tilbury Fort as this would result in further industrialisation of the landscape setting immediately to the north of Tilbury Fort. Increased traffic along Fort Road would likely have a considerably harmful impact upon the setting of the heritage asset through increased visual impacts, noise and traffic emissions in close proximity to the fort. The proposed infrastructure corridor will ensure that traffic is removed further away from Tilbury Fort and the embedded landscape mitigation and noise barriers will help to reduce visual and noise effects. Whilst the proposed infrastructure corridor is likely to have an impact upon the setting of Tilbury Fort, this is undoubtedly less harmful than upgrading Fort Road and introducing an increase in traffic movements in immediate proximity to the heritage asset; this is assessed in detail within Appendix 12.B of the ES. In terms of landscape character, the remnant grazing marsh north of Tilbury Fort is strongly influenced by existing industrial and urban development;
- if the option of upgrading Fort Road was pursued, the road itself and its associated traffic would split this area into two. The western unit would be little more than an isolated urban fringe field surrounded by a combination of road, rail and a car storage compound (the existing Fortland site, which would be able to be retained in this scenario). Visual connections with Tilbury Fort would be severed. The eastern unit would be similarly affected and would become the only fragment of retained grazing marsh relevant to the setting and appreciation of the fort. This compares to the current proposals, which would restrict proposed vehicular traffic movements within the area of Tilbury Marshes most strongly affected by the mainline railway and urban character of Tilbury.



- 6.29 In respect of the eastern end of the infrastructure corridor, a number of options were considered for the interaction of the new road link and the existing Fort Road before arriving at the option contained within the Application. In summary, this option has been brought forward because it:
- reduces risks associated with reduced visibility of the crest curve at the existing Fort Road overbridge;
  - separates HGV's and local traffic.
  - separates Non-Motorised Users and HGV traffic.
  - maintains the existing alignment of Fort Road;
  - deters HGV's from using local roads;
  - reduces exhaust emissions owing to flatter road gradient of the main HGV route;
  - reduces visual intrusion by keeping the busier HGV link at a lower level in favour of elevating the quieter local road; and
  - creates a continuity of the higher trafficked infrastructure corridor.
- 6.30 The compulsory acquisition and temporary possession proposals that relate to the road link itself and included within the Application are no more than is required to deliver that road link to the design that is explained by the Surface Access Options Report. They are therefore proportionate in the context of the proposals.

### Rail

- 6.31 PoTLL consider that a railhead at Tilbury2 is an essential feature of the proposals. Omitting rail connectivity would limit the range of port-related uses that could be accommodated at the site. In particular, the viability of bulk aggregate transshipment at Tilbury2 is reliant on the provision of a new railhead due to the limited distances over which aggregates can economically be transported by road. In any event, if Tilbury2 were developed without a railhead, any port-related uses on the site would inevitably result in a significantly greater volume of HGVs being generated by the proposals due to the need to tranship all goods by road. This would be likely to have significantly greater environmental effects. The inclusion of a railhead also aids the delivery of the Sustainable Distribution Plan (document reference 6.1.13 B), which is secured through a requirement of the draft DCO. As such, the compulsory acquisition and temporary possession proposals that support and will deliver this rail link can be considered as 'necessary'.
- 6.32 Two main options existed in respect of the proposed railhead at the Tilbury2 site. The first was to create a new turnout from the existing rail

line immediately to the north of the Tilbury2 site. This would have the benefit of reducing the amount of new off-line siding and thereby could reduce the overall width of the infrastructure corridor with consequential reduction in land take. However, consultation with Network Rail concluded that this option is not feasible due to the deliverability of the necessary revised signalling and other rail infrastructure at this location.

- 6.33 The option taken forward therefore relocates an existing PoTLL railhead from the riverside to Tilbury2, utilising the existing rail corridor. This has the benefit of utilising the existing rail turnout and signalling on the main line with limited interventions. This option is supported by Network Rail.
- 6.34 The rail alignment has been chosen to ensure that the rail alignment is close as possible to the road alignment to reduce land requirements, however there was also a need to take account of having some distance to the residents of Tilbury so as to reduce likely noise effects, and to avoid Anglian Water assets in the locality, an existing bund and Fort Road abutments at the eastern end.
- 6.35 The compulsory acquisition and temporary possession proposals that relate to the rail link and included within the Application are no more than is required to deliver that rail link. They are therefore proportionate in the context of the proposals.

#### Environmental Mitigation

- 6.36 As a result of the need for Tilbury2 to be located as proposed, and the associated need for infrastructure corridor to access it, as discussed above; a range of environmental measures are required to mitigate the effects of the infrastructure corridor on the residents of Tilbury, on the setting of Tilbury Fort and on protected species and habitats.
- 6.37 These measures are shown indicatively on the General Arrangement Drawings (document reference 2.2) and in figures 9.9 and 10.13 of the Environmental Statement (document reference 6.1) (and will be secured through operation of the Landscape and Ecological Management and Maintenance Plan (document reference 6.1.10 P), but, in summary, include:
- noise barriers;
  - landscaping; and
  - a shared use foot and cycle way within the highway boundary.
- 6.38 Their inclusion means that the infrastructure corridor is wider than just the highway and rail boundaries, and therefore requires more compulsory acquisition of land in order to support this necessary mitigation.
- 6.39 As these measures are required as a direct mitigation for the infrastructure corridor, and follow its alignment, there was little scope for

them to be located elsewhere. However, the need for, location of, and extent of the various measures is discussed in the Environmental Statement. No more land than is required to deliver the calculated mitigation as set out in the Environmental Statement is included within the compulsory acquisition and temporary possession proposals – as such these proposals can be considered proportionate.

- 6.40 The environmental mitigation proposed to be located on the infrastructure corridor also includes land utilised for the purposes of open ditches, additional to that required for highway drainage, as well as additional fauna landscaping that has been proposed for ecological, rather than landscape reasons.
- 6.41 Both of these elements are required to help offset the impact of loss of waterbodies (and their resident species) and of other fauna and habitats as a result of the redevelopment of the Tilbury2 site.
- 6.42 The option of leaving those elements of the Tilbury2 site that had known ecological value in respect of its waterbodies (mainly to the north of the site), and avoiding areas of valuable fauna and habitats across the site, was considered by PoTLL as part of the development of the proposals (as also set out in the Masterplanning Statement (document reference 6.2.5A).
- 6.43 However, as set out in the Outline Business Case, the development of the land in the form shown on the Application plans is crucial to the future success of the proposals. These positive economic and social effects can be taken alongside the view that some areas of ecological value, particularly those reliant on open mosaic habitat, are likely to deteriorate in value if left in an undeveloped condition in the future, as a consequence of natural succession more substantial vegetation and the resultant occlusion and then elimination of unshaded open ground. It is therefore considered that development of these areas of the Tilbury2 site is justified.
- 6.44 This therefore leads to a need for these areas of substantive value to be compensated, and in accordance with the mitigation hierarchy, as much as possible to be compensated on-site. As is shown on Figure 10.13 of the Environmental Statement, to the extent that it has been possible, compensation has been included within the Tilbury2 site, particularly in the north-eastern area of land within the Green Belt. However, there is insufficient room within the Tilbury2 site for all areas required to be compensated to fit.
- 6.45 As such, areas within the infrastructure corridor have been utilised for this compensation to ensure that compensation is provided near to the Tilbury2 site, and in locations with ecologically appropriate interrelationship with the site with a consequential effect on the need for compulsory acquisition.

- 6.46 The extent of the ecological mitigation required is set out in Chapter 10 of the Environmental Statement, however it should be noted that even with these measures in place, some aspects will still be required to be compensated off-site. As such, it is considered that their inclusion is proportionate, as well as necessary, for the reasons identified above.

### **Marine Infrastructure**

- 6.47 As an operational port, Tilbury2 will have certain requirements in order to serve its users. However, as set out in the Outline Business Case (document reference 7.1), the requirements for Tilbury2 are to serve the needs of two markets: construction aggregate materials, as well as RoRo operation – indeed this forms the need for the proposals as a whole.
- 6.48 The options that have been considered, and details of the requirements of such infrastructure are set out in the Masterplanning Statement (document reference 6.2.5A).
- 6.49 The marine infrastructure that forms part of the Application (and the associated compulsory acquisition and temporary possession proposals for the river bed in which it will sit) is the minimum required to support the requirements of such operations – it is therefore necessary and proportionate.
- 6.50 It should be noted that the limits of deviation for the marine works (Work Nos. 1 and 2) are wider than the extent of land proposed for compulsory acquisition. This is because the work limits of deviation make allowance for dredging; which the DCO specifically provides powers for PoTLL to be able to do without the need for associated land powers. As such, the proposed permanent land take does include land required for these purposes.

### **Compensation and Certainty of Funding**

- 6.51 Requisite funds for the acquisition of the relevant land required and for the construction and operation of the proposals will be available in the programme timescale.
- 6.52 The Funding Statement for the proposals (document reference 4.2) sets out, in accordance with the recommendation in the 2013 DCLG Guidance (at paragraph 9), that there is a "*reasonable prospect of the requisite funds for acquisition becoming available*" for the proposals. It confirms that funding for compulsory acquisition will be in place before compulsory acquisition powers are used. It explains how the proposals, and the compulsory acquisition of land required to enable its delivery, are proposed to be funded, and how the requisite funding would be made available within a reasonable timescale.

### **Compelling case in the public interest**

- 6.53 As the 2013 DCLG Guidance makes clear (at paragraph 12), in addition to establishing the purpose for which compulsory acquisition is sought (see above), section 122 of the Act requires the Secretary of State to be satisfied that there is a compelling case in the public interest for the land included in the DCO to be acquired compulsorily.
- 6.54 For this condition to be met, the Secretary of State will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition of land and interests in land for the proposals will outweigh the private loss that would be suffered by those whose interests in land and/or rights over land are to be acquired.
- 6.55 Tilbury2 aligns with national government policy for ports. The NSIP designation means that the proposals may only be authorised by means of a DCO made by the Secretary of State under the Act.
- 6.56 DCO applications must be determined in accordance with the relevant National Policy Statement (“NPS”). For port schemes, the relevant NPS is the NPS on Ports (January 2012) (“NPSP”). The Secretary of State will use the NPSP policy as determinative of the merits of the DCO application in the absence of compelling reasons to the contrary. The proposals have been developed to meet, and meets, the relevant policy objectives of the NPSP. The Planning Policy Compliance Statement sets this out in detail (document reference 6.1.1 A).
- 6.57 The Tilbury2 proposals will deliver economic benefits that are in the public interest. These benefits can be categorised as employment benefits, Gross Value Added (‘GVA’) benefits, operation benefits (including port volumes), and socio-economic benefits.
- 6.58 In terms of employment, the proposals are expected to generate 218 FTE net additional construction jobs (direct, indirect and induced) at Tilbury2 and 266 FTE jobs based on an assessment of the impact of Tilbury2 on UK plc (defined as the commercial interests of the United Kingdom considered as a whole). The GVA boost from construction is estimated to be £22.4 million.
- 6.59 On a similar basis, the proposals are expected to support ongoing employment through port operations (again in terms of direct, indirect and induced effects). This is estimated to equate to a net addition of 868 FTE jobs from Tilbury2 on UK plc. GVA benefits are closely related to the operational employment benefits. The OBC estimates an increase in GVA from £492.2 million if the port was constrained to its existing area to £537.1 million with Tilbury2 (at a regional level), representing £562.2 million in the UK plc scenario. Operation benefits flow from significant increases in throughput.
- 6.60 The OBC sets out the wide socio-economic benefits that arise from the proposals and are in the public interest, with employment and economic activity increasing locally, levels of qualifications and income rising,

greater training opportunities, and some (albeit marginal) effect on reducing deprivation.

- 6.61 The need for the proposals has been established in the need case (set out in the Outline Business Case (document reference 7.1) and is underpinned by its NSIP status. As such, the benefits in the public interest, which are anticipated to arise from the proposals, are of national significance and would, accordingly, be on a scale outweighing the individual private loss suffered by parties whose interests in land were interfered with in order to enable the delivery of the proposals. The proposed acquisition of and interference with land is therefore legitimate, necessary and proportionate in principle.
- 6.62 Steps have been taken by PoTLL to ensure that the land and interests in land which are proposed to be acquired as part of the proposals are necessary and proportionate as set out in the Masterplanning Statement and its accompanying Surface Access Options Report (document reference 6.2.5A).
- 6.63 Accordingly, as contemplated by the Act, and in particular by section 122(3), if powers of compulsory acquisition were included in any DCO granted for the proposals, the use of such powers would be legitimate, necessary and proportionate for the purposes of constructing and operating the proposals in the public interest; and in satisfaction of the conditions in section 122 of the Act. Without the power to acquire compulsorily the necessary interests in and rights over land, PoTLL would be unable to guarantee the delivery of the proposals. Therefore, for all of the reasons set out above, PoTLL seeks the inclusion, in the DCO, of powers of compulsory acquisition.



## **7.0 COMMUNICATIONS AND NEGOTIATIONS WITH OWNERS OF INTERESTS IN LAND**

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### **Consultation**

- 7.1 As noted in the Consultation Report (document reference 5.1), all parties with an interest in land consulted pursuant to section 42 of the Act were identified through diligent inquiry (as set out in Chapter 4 of this Statement), and are included in the Book of Reference (document reference 4.3). They include all owners, occupiers and other persons with an interest (including mortgagees) in any land affected by the proposals.

### **Current position in relation to engagement and negotiations**

- 7.2 The current position in relation to PoTLL's engagement and negotiations with each land owner affected by the proposals is explained in Appendix B. Detailed discussions are ongoing with landowners and occupiers in order to ensure that their concerns are taken into account and accommodated wherever possible. Negotiations are continuing with landowners and persons with interests in land affected by the proposals. There are also cases where the ownership of land is unknown or unclear, and where it may therefore not be possible to acquire the interest without the risk of challenge. PoTLL has concluded, therefore, that acquisition by agreement may not be achievable in all cases within a reasonable time frame or in any event, within the timescales necessary to ensure that the programme for the construction of the proposals would be met.
- 7.3 PoTLL is aware of the requirement (which is noted in the 2013 DCLG Guidance, at paragraph 25) to seek to acquire land by negotiation wherever practicable, and recognises that powers to acquire land compulsorily should only be exercised if reasonable attempts to acquire by agreement fail.
- 7.4 PoTLL has informed all those with an interest in the land of its willingness to negotiate to acquire the land by agreement, and to invite dialogue along those lines. As a result, PoTLL is in the process of engaging with a significant proportion of landowners affected by the proposals with regard to the acquisition of their land / interests in land by agreement; and negotiations with this objective in mind will be continuing throughout the DCO examination process.
- 7.5 For the purposes of the Examination, PoTLL has also provided a land negotiations tracker document at Appendix F. This is based on the content of Appendix B, but in a form that is often used in DCO Examinations. It is considered that it can be used as a live tracker document through the course of the Examination.





## 8.0 IMPACTS ON STATUTORY UNDERTAKERS

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### **Statutory Undertakers affected by the proposals**

- 8.1 Appendix D to this Statement contains a list of statutory undertakers and other similar bodies which have, or which may have, a right to keep equipment (in connection with their undertaking) on, in or over the land required for the proposals.

### **Application of section 127 of the Planning Act 2008 – acquisition of land owned by statutory undertakers for the purposes of their undertaking**

- 8.2 Section 127 of the Planning Act 2008 applies to land<sup>1</sup> acquired by statutory undertakers for the purposes of their undertaking, and places restrictions on the compulsory acquisition of such land, where a representation is made by a statutory undertaker in relation to a DCO application and is not withdrawn by the close of the examination of that application. The draft DCO for the proposals includes provision to authorise the compulsory acquisition of land and rights held by statutory undertakers for the purposes of their undertaking.
- 8.3 Section 127(2) provides that a DCO may include provisions authorising the compulsory acquisition of statutory undertakers' land only to the extent that the Secretary of State is satisfied of the matters set out in subsection 127(3), which are that the nature and situation of the statutory undertaker's land is such that:
- it can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or
  - if purchased, it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on of the undertaking.
- 8.4 Section 127(5) provides that a DCO may include provisions authorising the compulsory acquisition of a right over statutory undertakers' land by the creation of a new right over land only to the extent that the Secretary of State is satisfied of the matters set out in subsection 127(6), which are that the nature and situation of the land are such that:

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<sup>1</sup> In this context, the definition of 'land' includes rights in land, such as rights to keep apparatus installed in, on, under or over land.

- the right can be purchased without serious detriment to the carrying on of the undertaking, or
  - any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of other land belonging to, or available for acquisition by, them.
- 8.5 PoTLL recognises that where section 127 applies to land or rights which are required to be acquired to enable the delivery of the Proposals, and the statutory undertaker which owns such land or right(s) makes a representation to the Secretary of State in relation to the draft DCO and does not withdraw that representation before the completion of the examination into the application, PoTLL would be required to seek confirmation that the Secretary of State was satisfied of the matters set out in subsections 127(3) and 127(6).
- 8.6 The 2013 DCLG Guidance advises that an undertaker proposing compulsory acquisition of statutory undertakers' land should consider an application to the relevant Minister in the Government Department overseeing its utility in advance of the submission of an application for a Development Consent Order.
- 8.7 PoTLL has not made any approaches to relevant Ministers at this time, but is in consultation with each of the statutory undertakers identified in the paragraphs below, and expects to reach agreement with them (regarding the effects of the proposals on their land and/or apparatus, and the need for and terms of any protective provisions) prior to the close of the examination of the Application.
- 8.8 PoTLL will continue to review the need for section 127 procedures to be engaged and, following receipt of any relevant representations on the application for development consent for the proposals, will identify whether any statutory undertakers have made a representation and, in the event that they have, would consider the need to make an application to the relevant Minister for certification pursuant to section 127 of the Planning Act 2008.
- 8.9 In the Application, and for the purposes of the proposals, PoTLL proposes to acquire land in which a number of statutory undertakers have interests, as listed below (see paragraph 8.4).
- 8.10 PoTLL anticipates that its negotiations with statutory undertakers will be documented in Statements of Common Ground, and will provide a basis for the inclusion in the draft DCO of bespoke protective provisions where appropriate. As such, PoTLL expects to achieve an agreed and satisfactory position with each of the below-mentioned statutory undertakers prior to the close of the examination period.

### **Application of section 138 of the Planning Act 2008 – interference with apparatus owned by statutory undertakers for the purposes of their undertaking**

- 8.11 Section 138 of the Planning Act 2008 applies where a DCO authorises the acquisition of land (compulsorily or by agreement) and there subsists over the land a relevant right, or there is relevant apparatus on, under or over the land.
- 8.12 For the purposes of section 138:
- a 'relevant right' means a right of way, or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land which is vested in or belongs to statutory undertakers for the purpose of carrying on their undertaking, or which is conferred on a telecommunications code operator; and
  - 'relevant apparatus' means apparatus vested in or belonging to statutory undertakers for the purpose of the carrying out of their undertaking, or electronic communications apparatus kept installed for the purposes of an electronic communications code network.
- 8.13 A DCO may only include provision for the extinguishment of the relevant right, or the removal of the relevant apparatus, if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the DCO relates.
- 8.14 The draft DCO for the proposals includes provision to authorise interference by PoTLL with the apparatus of statutory undertakers, in connection with the delivery of the proposals as detailed in the remaining paragraphs of this section.
- 8.15 The utilities listed in the following paragraphs are affected by the proposals in that their services would be required to be diverted or re-aligned. The proposals may also affect existing minor private utility supplies or services, such as telecommunications cables which it is anticipated may need to be diverted within the highway boundary.

#### **List of statutory undertakers**

- 8.16 A list of statutory undertakers whose services may be affected by the proposals is provided at Appendix D to the Statement of Reasons. This list includes statutory undertakers and other similar bodies having or possibly having a right to keep equipment on, in or over the land within the Order limits.
- 8.17 The interest held by each statutory undertaker is identified in the Book of Reference (document reference 4.3).

#### **List of plots owned by statutory undertakers to be acquired for the Proposals**

8.18 Table 8-1 is a list of plots owned by statutory undertakers which are proposed to be acquired in connection with the proposals.

**Table 8-1 List of plots owned by statutory undertakers which are proposed to be acquired in connection with the proposals**

<b>Plot</b>	<b>Plot Description</b>	<b>Interest</b>	<b>Nature</b>	<b>Land Take</b>
03/01	All interests and rights in approximately 32 square metres of greenery and shrubbery south of London to Southend railway line and residential properties at The Beeches, Tilbury, Essex	Network Rail Infrastructure Limited 1 Eversholt Street London NW1 2DN	Freeholder	Acquisition
03/02	All interests and rights in approximately square metres of water body, greenery and shrubbery south of London to Southend railway line and residential properties at The Beeches, Tilbury, Essex	Network Rail Infrastructure Limited 1 Eversholt Street London NW1 2DN	Freeholder	Acquisition
03/03	All interests and rights in approximately 492 square metres of drain, greenery and shrubbery south of London to Southend railway line and residential properties at The Beeches,	Network Rail Infrastructure Limited 1 Eversholt Street London NW1 2DN	Freeholder	Acquisition

	Tilbury, Essex			
03/12	All interests and rights in approximately 2465 square metres of hardstanding, grassland, greenery, shrubbery adjacent to London to Southend railway line and north west of Fort Road, Tilbury, Essex	Network Rail Infrastructure Limited 1 Eversholt Street London NW1 2DN	Freeholder	Acquisition
03/16	All interests and rights in approximately 995 square metres of trees and shrubbery south of London to Southend railway line and east of Fort Road, Tilbury, Essex	Network Rail Infrastructure Limited 1 Eversholt Street London NW1 2DN	Freeholder	Acquisition
06/05a	All interests and rights in approximately 110 square metres of jetty over part of river (River Thames), bed and banks thereof, south of Tilbury Treatment Works, Tilbury, Essex	Anglian Water Services Limited Lancaster House Lancaster Way Ermine Business Park Huntingdon PE29 6XU	Freeholder (structure)	Acquisition
06/05a	All interests and rights in	The Port of London	Freeholder (riverbed)	Acquisition



	approximately 110 square metres of jetty over part of river (River Thames), bed and banks thereof, south of Tilbury Treatment Works, Tilbury, Essex	Authority London River House Royal Pier Road Gravesend Kent DA12 2BG		
06/06	All interests and rights in approximately 25249 square metres of jetty, and part of river (River Thames), bed and banks thereof, south of Tilbury Treatment Works, Tilbury, Essex	The Port of London Authority London River House Royal Pier Road Gravesend Kent DA12 2BG	Freeholder (riverbed)	Acquisition
06/10	All interests and rights in approximately 13224 square metres of jetty, and part of river (River Thames), bed and banks thereof, south of Tilbury Treatment Works, Tilbury, Essex	The Port of London Authority London River House Royal Pier Road Gravesend Kent DA12 2BG	Freeholder (riverbed)	Acquisition
06/011	All interests and rights in approximately 3706 square metres of part of river (River Thames), bed and banks	The Port of London Authority London River House Royal Pier Road Gravesend	Freeholder (riverbed)	Acquisition

	thereof, south of Tilbury Treatment Works, Tilbury, Essex	Kent DA12 2BG		
06/12	All interests and rights in approximately 12009 square metres of part of river (River Thames), bed and banks thereof, south of Tilbury Treatment Works, Tilbury, Essex	The Port of London Authority London River House Royal Pier Road Gravesend Kent DA12 2BG	Freeholder (riverbed)	Acquisition

**List of plots owned by statutory undertakers over which rights are to be acquired for the Proposals**

8.19 Table 8-2 is a list of plots owned by statutory undertakers over which rights are proposed to be acquired in connection with the proposals.

**Table 8-2 List of plots owned by statutory undertakers over which rights are proposed to be acquired in connection with the proposals.**

Plot	Plot Description	Interest	Nature	Land Take
02/03	Acquisition of rights in approximately 683 square metres of shrubbery and London to Southend railway line north of Ferry Road, Tilbury, Essex	Network Rail Infrastructure Limited 1 Eversholt Street London NW1 2DN	Freeholder	Rights
04/01	A right to remove an Anglian Water pipe and	Port of Tilbury Limited London Leslie Ford	Rightsholder	Rights

	extinguish Anglian Water's property rights over approximately 1251 square metres of grassland and shrubbery and Anglian Water Pipe, south of London to Southend railway line, Tilbury, Essex	House Tilbury Docks Essex RM18 7EH		
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## 9.0 HUMAN RIGHTS

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### **Application of the European Convention on Human Rights**

9.1 The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights ('the Convention'). The Convention includes provisions in the form of Articles ('the Convention rights'), the aim of which is to protect the rights of the individual and his possessions.

9.2 The following Convention rights are relevant to the Secretary of State's decision as to whether or not there is a compelling case for the DCO to be made in a form that includes powers authorising the compulsory acquisition of land and interests in land:

- Article 6 entitles those affected by the powers sought in a DCO to a fair and public hearing by an independent and impartial tribunal.
- Article 8 protects the right of the individual to respect for his private and family life, his home and his correspondence. A public authority cannot interfere with these interests unless such interference is in accordance with the law and is necessary in the interests of, among other things, national security, public safety or the economic wellbeing of the country.
- Article 1 of the First Protocol protects the right of everyone to peaceful enjoyment of possessions. No one can be deprived of their possessions except in the public interest and subject to the relevant national and international laws. As with Article 8, any interference with possessions must be proportionate and in determining whether a particular measure is proportionate a fair balance must be struck between the public benefit sought and the interference with the private rights in question.

9.3 If made in a form that includes powers of compulsory acquisition, the DCO would enable PoTLL to infringe the human rights of persons with an interest in the land that would be affected by the proposals. Such infringement is authorised by law provided that:

- the statutory procedures for obtaining the DCO are followed and there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the DCO; and
- any interference with a Convention right is proportionate to the legitimate aim served.

### **Compliance with the Convention and with the Human Rights Act 1998**

- 9.4 As described in detail in Section 5 of this Statement (see above), the land and interests in land affected by the proposals are required for (or are incidental to) the public purposes of the DCO. Without the powers to acquire the relevant land and interests in land, the proposals cannot be delivered. Whilst PoTLL intends to acquire land by agreement wherever practicable, powers are required in the DCO to enable PoTLL to acquire land and interests in land compulsorily, as a means of overriding existing rights over and/or interests in land, as well as creating new, and extinguishing existing, rights over land, and using and taking possession of land needed on a temporary basis.
- 9.5 The Application is supported by Land, Crown Land and Special Category Land Plans (document reference 2.3) and Works Plans (document reference 2.4). The Land, Crown Land and Special Category Land Plans show the extent of the land required for the proposals. The Works Plans show the authorised works that would be carried out on the land if development consent was granted. This Statement explains (at Appendix A) how the Works (if authorised by the DCO) would affect each plot of land.
- 9.6 PoTLL has considered the potential for the infringement of Convention rights in consequence of the exercise of compulsory acquisition powers, should such powers be included in the DCO. As is explained above (in section 6 of this Statement) the land which is proposed to be acquired for the proposals is the minimum necessary to ensure delivery of the proposals and any necessary mitigation, and the Order limits have been drawn to minimise interference with the peaceful enjoyment of a person's possessions under Article 1 of the First Protocol of the Human Rights Act.
- 9.7 PoTLL considers that there would be significant public benefit arising from the delivery of the proposals, pursuant to the necessary grant of development consent. That benefit could only be realised if the grant of development consent included the grant of powers of compulsory acquisition. The grant of the powers would accordingly be in the public interest, which would override the private interests of the relevant landowners; further, and in the circumstances, the compulsory acquisition of land and rights would not place a disproportionate burden on the affected land owners, who would be entitled to compensation under the Compensation Code.
- 9.8 In relation to Article 6 of the Convention, the DCO process provides the opportunity for members of the public to make representations on the application for development consent. In accordance with Part 5 of the Planning Act 2008, PoTLL consulted the persons set out in sections 42 and 44 of the Planning Act 2008. This consultation included all known owners and occupiers of the land and those persons who would or might be entitled to make claims either under section 10 of the Compulsory Purchase Act 1965 or section 152(3) of the Planning Act 2008 in respect of injurious affection, or under Part 1 of the Land Compensation Act 1973. Furthermore, the beneficiaries of restrictive

covenants and other rights overridden by the exercise of powers in the DCO would have the opportunity to make claims for compensation under section 10 of the Compulsory Purchase Act 1965.

- 9.9 Furthermore, there are opportunities for representations to be made by those potentially affected by the proposals by way of objections submitted in response to any notice given under section 56 of the Planning Act 2008, and/or during the examination of the application by the examining authority. In addition, further opportunities to make representations would arise from any written representations procedure which the examining authority decides to hold, and, in particular, from any compulsory acquisition hearing held under section 92 of the Planning Act 2008, at which each affected person is entitled to make oral representations (followed up by written submissions) about PoTLL's request for powers of compulsory acquisition.
- 9.10 Ultimately, should the DCO be made by the Secretary of State, a person aggrieved would have the opportunity to challenge the DCO by way of judicial review in the High Court if they considered that the grounds for doing so could be made out pursuant to section 118 of the Planning Act 2008. In relation to disputes about compensation, affected persons would have the right to apply to the Upper Tribunal of the Lands Chamber, which is an independent tribunal.
- 9.11 Therefore, for all the reasons set out above, PoTLL considers that any infringement of the Convention rights of those whose interests in the land might be affected by the exercise of powers of compulsory acquisition would be proportionate and legitimate, would be in the public interest; and would be in accordance with national and European law. PoTLL therefore considers that it would be appropriate and proportionate for the Secretary of State to make the DCO in a form which includes the grant of the compulsory acquisition powers sought by PoTLL in its application for development consent for the proposals.

### **Consideration of duties under the Equality Act 2010**

- 9.12 PoTLL itself is not subject to any duties under section 149 of the Equality Act 2010 in terms of the need to take due regard to the need to (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by or under the Equality Act 2010; (ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.13 However, PoTLL is aware of the importance of these issues and that the Examining Authority and the Secretary of State will need to take into account such issues in considering the Application. As such, it has conducted an Equalities Impact Assessment of the proposals (document reference (6.6) which explains the impacts of the proposals on those with protected characteristics.



## 10.0 THE PLANNING POLICY POSITION INCLUDING THE VIEW OF THE GOVERNMENT

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### National policy

- 10.1 The proposals are supported by Government policy, due to its status as a NSIP.
- 10.2 Therefore the relevant national policy document that the proposals must meet in terms of policy compliance is the NPSP. In evaluating the merits of the proposals the Secretary of State must have regard to the NPSP.
- 10.3 The proposals meets the tests of need for the development of national networks set out at the start of chapter 3 of the NPSP, such as ensuring completion and security of supply and contributing to local employment.
- 10.4 The Planning Policy Compliance Statement (document reference 6.2.1A) sets out in detail how all these tests are met and how the proposals have been developed in accordance with the NPSP.

### Local policy

- 10.5 The Thurrock Core Strategy and Development Management Policies Development Plan Document (DPD) proposals map allocates a significant proportion of the northern area of the Tilbury2 site for employment related development. On employment allocations, Policy CSSP2 indicates that the Council will “*promote and support economic development in the Key Strategic Economic Hubs*” (of which Tilbury is one) “*that seeks to expand upon their existing core sectors and/or provide opportunities in the growth sectors.*” The “core sectors” are identified in the DPD as including :-

*“the international port and logistic related facilities at Tilbury and the recent approval for a deep-water port at London Gateway and the logistics and retail clusters at the Lakeside Basin / West Thurrock.”<sup>2</sup>*

- 10.6 In addition, Tilbury Power Station lies within the Tilbury “Regeneration Area” identified in the DPD; one of five regeneration areas which focus development on the Thurrock Urban Areas (para. 3.19). Paragraph 3.36 states that there will be further development of, *inter alia*, industry based upon the riverside.
- 10.7 It is also stated at paragraph 3.34 that “Tilbury is a key location for employment in the Borough and will provide between 1,600 and 3,800 additional jobs in logistics, port and riverside industries.”

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<sup>2</sup> Para 4.11

- 10.8 The proposals are also supported by the DPD's Policy CSTP28: River Thames which seeks to promote the economic and commercial function of the river with priority being given to allocating riverside development sites to uses that require access to the river frontage, safeguarding port-related operational land and safeguarding additional adjacent land required for further port development, including expansion. The policy also seeks to safeguard existing and promote new jetties and wharves facilities where appropriate for transport of goods and materials.
- 10.9 The development of the proposals for a new port terminal is therefore consistent with and positively supported by the employment strategy of the development plan which supports the port development and the use of the Thames.

## **11.0 SPECIAL CONSIDERATIONS AFFECTING THE LAND**

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- 11.1 The draft DCO includes provisions for the compulsory acquisition of land to which the provisions of the Act relating to special category land apply. The land within the draft DCO which is special category land is land forming part of a registered common (plots 03/08 and 03/11).
- 11.2 The acquisition of the common land is required to enable delivery of the proposals, specifically to facilitate the construction of the 'infrastructure corridor' which would accommodate road and rail links from the new port facilities to the existing rail and road network
- 11.3 Sections 131 and 132 of the Act make provision for special parliamentary procedure to apply where a DCO authorised the compulsory acquisition of land, or rights over land, forming part of a common. Specifically:
- Section 131 applies where an application is made for a DCO authorising the compulsory acquisition of land forming part of a common; and
  - Section 132 applies where an application is made for a DCO authorising the compulsory acquisition of a right over land forming part of a common or open space by the creation of a new right over land.
- 11.4 PoTLL's draft DCO will engage only section 131 because powers of outright acquisition are being sought over the special category land in question. Section 132 is not engaged. There is 1 plot of special category land in relation to which PoTLL requires temporary possession but such temporary use (as opposed to compulsory acquisition) does not engage the provisions of sections 131 and 132. As such, any references to 'the common land' in this chapter relate to that common land which is proposed to be subject to powers of compulsory acquisition under the DCO.
- 11.5 Special parliamentary procedure will apply where section 131 is engaged in respect of common land unless the Secretary of State is satisfied that one of the following circumstances applies:

- replacement land has been, or will be, given in exchange for land being compulsorily acquired and that replacement land has been, or will be, vested in the prospective seller of the existing special category land and subject to the same rights, trusts and incidents (section 131(4) of the Act); or
  - the land being compulsorily acquired does not exceed 200 square metres in extent or is required for specified highway works, and the provision of land in exchange is unnecessary in the interests of people entitled to certain rights or the public (section 131(5) of the Act).
- 11.6 Sections 131(3) and 131(2) of the Act provide that an order granting development consent shall be subject to special parliamentary procedure, to the extent that the order authorises the compulsory acquisition of land, unless the Secretary of State is satisfied that one of subsections 131(4) to 131(5) (detailed above) applies; and that fact, and the subsection concerned, are recorded in the order or otherwise in the instrument or other document containing the order.

### **Existing Common Land**

- 11.7 Delivery of the proposals would require the acquisition of part of an area of common land registered as such under the Commons Registration Act 1965 and the Commons Act 2006 known as West Tilbury Common. The land is undeveloped and is generally used without express consent for the fly-grazing of horses. Where some public access is possible to land to the north of Fort Road, some limited use by members of the public walking dogs does take place. This land is not open space. The Planning Policy Compliance Statement (document reference 4.1) sets out PoTLL's rationale for this conclusion, which is based on the nature of the current uses of the land and the lack of any formal designation as 'public open space'.
- 11.8 PoTLL's investigations concluded that the common land is part of the common land holding with reference CL228 and details of the land holding were obtained from Thurrock Council, as the local authority which maintains the Commons Register.
- 11.9 The below sections set out PoTLL's investigations undertaken, and its conclusions, both in relation to the ownership of the common land and including those parties which benefit from rights of common.

### Freehold ownership

- 11.10 The Commons Register for CL228 was established in 1968 pursuant to an application made by Charles Henry Cole of Hatchetts, West Tilbury, Essex – who also claimed ownership of the underlying freehold title. There was a challenge in relation to the registration of this ownership, which was heard by the Commons Commissioner on 22 February 1979, however the decision confirmed Charles Henry Coles' registration as

owner of the whole of the common land now registered under CL228 for the purposes of registration on the Commons Register.

- 11.11 However so far as registration under the Land Registration Acts is concerned the title remains unregistered. Having carried out the investigations set out in Appendix E, PoTLL understands that the freehold ownership of the common land has not been divested following the death of Charles Henry Cole and both of his executors; the current legal owners thereby being Amanda Mary Harborne and Edith Marion Cole (the " Legal Owners") as the executors of the last surviving executor of Charles Henry Cole's estate. PoTLL's investigations to date, including information provided by the solicitors acting for Diana Cole, suggest that the beneficial ownership of the common land is held by Diana Cole and James Cole (the **Beneficial Owners**) and investigations are continuing by PoTLL with the solicitors acting for the Legal Owners and the Beneficial Owners to confirm this beneficial ownership. The Legal Owners (who, in any event have power to override the beneficial interest) have agreed to apply to the Land Registry for voluntary registration of their title to the common land within CL228 and enter into the necessary documentation to pass legal title to the Beneficial Owners, and the Beneficial Owners' solicitors have been instructed to proceed with this. There is then agreement in principle between PoTLL and the Beneficial Owners for the subsequent acquisition of the common land. PoTLL's solicitors are in the process of approving and assisting with the proposed application for registration, providing costs undertakings to the Legal Owners' solicitors and the Beneficial Owners' solicitors and negotiating the acquisition documents. PoTLL has also settled a form of statutory declaration which they will provide in support of the application and this has been sent to the solicitors acting for the Beneficial Owners for approval prior to submission of the application to the land registry. There has also been agreement in principle to deal with any requisitions raised by the land registry in relation to the proposed application and this will be documented in the proposed acquisition agreement between PoTLL and the Beneficial Owners.

#### Rights of common

- 11.12 As is the nature of common land, the common land is subject to third party rights of common existing over it.
- 11.13 PoTLL was made aware in March 2017 that the common land was managed and maintained by a body made up of representatives of the local inhabitants (councillors, clergy and landowners) known as the West Tilbury Commons Conservators.
- 11.14 Discussions have taken place since March 2017 with the Clerk to the West Tilbury Commons Conservators ("the Clerk"), and it is understood that the establishment of the common land dates back to the late nineteenth century pursuant to an Inclosure Act. PoTLL has obtained and reviewed a copy of the Commons Regulation (West Tilbury)

Provisional Confirmation Act 1893 ("the Regulation Order"), which created the Conservators as a management body for the common land and sets out their role.

- 11.15 Pursuant to the Regulation Order, a valuer was to determine the "adjustment of rights" and make an award setting out the persons by whom, the stock by which and the times at which rights of common of pasture were to be exercised; and the persons by whom, the mode and places in which and the times at which rights of common of turbary (the right to dig turves or peat out of another's soil), taking of estovers (the right to take wood from another's land for the sustenance of the commoner's house or agriculture), taking of minerals or other interference with the soil were to be exercised.
- 11.16 PoTLL has been told by the Clerk that the award made by the valuer comprised rights of pasture only divided into a total of 500 "stints" (one stint being a right of pasture for one sheep, five stints being a bullock, seven and half stints being a horse and two and a half stints being a donkey).
- 11.17 The Clerk has informed PoTLL that an administration fee is payable in relation to the stints each year, which amounts to members of the local community being entitled to purchase a number of stints and thereby exercise the common rights of pasture over the Common Land to the extent of the 'stints' which they have purchased (and up to the maximum of 500). The Clerk has confirmed that the only current 'stint holder', who has paid for all 500 stints this year, is the farming partnership, CH Cole and Sons, which is run and owned by the Cole family (including the parties believed to be the Beneficial Owners of the common land freehold). CH Cole and Sons have confirmed their interest in the rights of common as the sole stint holder under the Conservators' regime.
- 11.18 The Local Authority Commons Register, however, also includes particulars of land to which all but two of the rights of common are attached, and an exercise was carried out by PoTLL to identify the current owners of each of these benefitting land parcels through searches at the Land Registry and correspondence with the owners that were identified, requesting that they confirm their interest to PoTLL (as well as sending the statutory consultation documents pursuant to section 42 of the Act).
- 11.19 Certain benefitting land holdings remain unregistered and in relation to these areas, advertisements were placed during the non-statutory consultation period (February to April 2017) in the local press, together with site notices placed on the land itself to try and identify the relevant interested party. No further beneficiaries were identified under this process and no responses were received in response to the correspondence sent to the registered land owners of the benefitting land parcels.

- 11.20 The Cole family consider that the Commons Register represents a snapshot of the relevant stint holders under the Regulation Order regime as at the date of registration of the common land in the Local Authority Commons Register, and that the Commons Register is not therefore an accurate reflection of the current ownership of the rights affecting the common land. They further consider that such rights should not have been expressed on the Commons Register to attach to benefitting parcels of land, as the stinted rights do not transfer with ownership of land but, as confirmed by the Clerk, require acquisition (and payment) each year.
- 11.21 In summary therefore PoTLL has established that the active use and management of the common land which it seeks to acquire was established under an Inclosure Act in the late 19th century and that the Regulation Order of 1893 made pursuant to this Inclosure Act set up its current management body. Whilst the investigations show that CH Cole and Sons appear to be the only entity actively exercising rights of common over the common land, it is unclear whether the Local Authority Commons Register does in fact represent the stint ownership under the Regulation Order regime as at the time of registration, or a separate set of rights which do, rightly, attach to benefitting parcels of land. As such in offering the Replacement Land, the common rights as currently registered and as currently understood by the West Tilbury Commons Conservators would transfer from the common land to the Replacement Land accordingly – the mechanism for this is provided in article 37.

#### Section 131 criteria

- 11.22 PoTLL considers that the exemption (to the application of special parliamentary procedure) which is provided by section 131(4) of the Act would apply to the area of common land which is proposed to be acquired under the DCO.
- 11.23 This is because PoTLL proposes to provide replacement land in exchange for the existing common land to be acquired under the DCO which will be vested in the owner of the common land and will be subject to the same rights, trusts and incidents in the common land as at present. The precise proposals for this replacement land are described in more detail in the below section of this chapter.
- 11.24 The other exemption (to the application of special parliamentary procedure) which could apply to common land, as set out in section 131(5) of the Act, cannot apply in this case. This is because the area of common land proposed to be acquired under the DCO will be greater than 200 square metres and is not required for the widening or drainage of an existing highway.

#### **Proposed replacement land and relevant DCO provisions**



- 11.25 As indicated above, PoTLL proposes to provide replacement land in exchange for the common land proposed to be compulsorily acquired for the purposes of the proposals. The draft DCO includes provision for the compulsory acquisition of land (plot 3/04a) for the purposes of providing this replacement land, as permitted by section 122(2)(c) of the Act. The proposed replacement land is owned by Thurrock Borough Council (the "Council").
- 11.26 The proposed replacement land is part of the Council's land at Fort Road Tilbury Essex and is registered (with other land owned by the Council) at the Land Registry under title number EX846488. The replacement land is:
- 13,509 m<sup>2</sup> in area ( 4m<sup>2</sup> larger than the common land proposed to be acquired);
  - a very similar character to the common land, comprising open grassland that is the same quality as the common land, and is capable of use by the common rights holders, and would not impede the fly-grazing of horses if deemed appropriate; and
  - in near proximity to the common land.
- 11.27 As such, PoTLL considers the replacement land meets the defined requirements in section 131(12) of the Act, namely that it is:
- not less in area than the common land; and
  - no less advantageous to the persons entitled to rights of common or other rights, and to the public.
- 11.28 To ensure the appropriate delivery of the replacement land in exchange for the common land to be compulsorily acquired, the draft DCO contains, in article 37, a specific framework which PoTLL will be required to comply with.
- 11.29 Article 37(1) provides that certain relevant powers in the DCO cannot be exercised in respect of the common land, namely (a) the powers contained in Part 2 (the Works Provisions) of the Order (save for the authority to survey and investigate land), (b) the service of a notice to treat; (c) the service of a notice under the Compulsory Purchase (Vesting Declarations) Act 1981; or (d) entry onto and temporary occupation of the land, until the replacement land has been acquired by PoTLL.
- 11.30 Article 37(2) then provides that, upon the exercise of those powers:

- the replacement land vests in the person in whom the common land was immediately vested prior to the exercise of the powers in the DCO;
- the replacement land becomes subject to the same rights, trusts and incidents which were attached to the common land; and
- the present common land is discharged from all rights, trusts and incidents to which it was previously subject.

11.31 Article 37(3) then provides that PoTLL must, as soon as reasonably practicable following the above elements taking effect, apply under the relevant enactments (i.e. the Commons Act 2006 and Commons Registration (England) Regulations 2014) to modify the Commons Register to take into account the replacement land, on the basis the framework provided by the DCO would result in a 'statutory disposition' of the common land.

11.32 As such, PoTLL considers this framework meets the relevant criteria in section 131(4) of the Act by providing adequate replacement land (which fulfils the defined criteria) in exchange for the common land, where that replacement land will be (a) vested in the owner of the common land; and (b) subject to the same rights, trusts and incidents as the present common land.

### Conclusion

11.33 In light of the above, PoTLL seeks the Secretary of State's confirmation that he is satisfied that the exemption in section 131(4) of the Act applies to this area of common land and that, accordingly, the parts of the DCO which relate to this common land shall not be subject to special parliamentary procedure.

11.34 To aid in this, set out below is a summary table of the common land plots affected by the proposals, the replacement land provided and the tests under the Planning Act 2008 which have been met by the proposals:

Special Category Land affected by the proposals	Replacement land provided by the proposals	Statutory Test Met
Plot 03/08 to be compulsorily acquired: 12,432 m <sup>2</sup>	Plot 03/04a to be compulsorily acquired: 13,509 m <sup>2</sup>	Section 131(4)
Plot 03/11 to be compulsorily acquired: 1073 m <sup>2</sup>		

Plot 03/07 to be temporarily possessed: 2037m <sup>2</sup>	n/a	Section 131 and 132 not engaged.
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## 12.0 OTHER CONSENTS REQUIRED IN RELATION TO THE PROPOSALS

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### Introduction

12.1 A Development Consent Order is being sought for the proposals and this would include powers of compulsory acquisition. However there are a number of other consents required for the Proposals which either the draft DCO does not cover, or in respect of which there is the option for the DCO to be used to dis-apply under sections 120 and 150 of the Act. In the case of consents to which section 150 applies, these can only be dis-applied at the absolute discretion of the relevant consenting body and usually only after agreement over protective provisions for the benefit of that body to be included in the DCO is reached.

### Additional consents

12.2 In relation to the proposals, the additional consents to be sought or disapplied within the DCO and which require the consent of the relevant authority pursuant to section 150 of the Act include:

- Marine licence – (under Part 4 of the Marine and Coastal Access Act 2009) - a deemed licence is proposed to be included in the DCO (pursuant to section 149A of the Act). The terms of this are subject to ongoing discussions with the Marine Management Organisation ("MMO").
- River works and dredging licences – (under sections 66 to 75 of the Port of London Act 1968) – PoTLL is seeking the disapplication of these provisions, in exchange for a set of protective provisions for the benefit of the Port of London Authority. The form of these protective provisions (and the proposed disapplication) is subject to ongoing discussions between PoTLL and the Port of London Authority.
- Consent (and an environmental permit for 'flood risk activities') to erect structures in, over or under a 'main river'; (Environmental Permitting (England and Wales) Regulations 2016) – PoTLL is seeking disapplication through the DCO subject to the agreement of the Environment Agency ("EA").
- Consent to obstruct watercourses (s.23 Land Drainage Act 1991) (if required) – PoTLL is seeking disapplication of this consent requirement through the DCO subject to the agreement of the relevant Drainage Board.
- Consents required under drainage byelaws.

**Consents to be sought separately include:**

- Protected species licences under the Conservation of Habitats and Species Regulations 2010 (if relevant); and
- Permits under the Environmental Permitting (England and Wales) Regulations 2010 other than for flood risk activities (e.g. for discharges or waste).
- Consents in relation to construction noise under section 61 of the Control of Pollution Act 1974.

**APPENDIX A: DETAILS OF THE PURPOSE FOR WHICH COMPULSORY  
ACQUISITION AND TEMPORARY POSSESSION POWERS ARE SOUGHT**

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Plot Number (s)	Purpose for which Plots are required	Work Number(s)
01/01, 01/02, 01/03, 01/04, 01/05, 01/06, 01/07	Temporary possession of land for working space and to undertake works to improve the Asda roundabout and its slip roads, including to associated footways, cycleways and utilities.	11
02/01	Temporary possession of land to undertake works to the existing St Andrews Road, a tie in to the new road, to create the new road, to create a new pedestrian and cycle crossing and to divert utilities.	9A
02/02	Temporary possession of land to undertake works to the existing St Andrews Road and Ferry Road, a tie in to the new road, to create the new road, to undertake works to modify and create new footways and cycleways and to divert utilities.	9A, 9B
02/03	Acquisition of rights to enable a connection of the proposed rail sidings for Tilbury2 to the London to Tilbury railway line.	12
02/04	Temporary possession of land to stop up existing footpath 144 and existing level crossing.	9A, 12
03/01 – 03/03	Compulsory acquisition of land to construct a new road and railway link as part of the infrastructure corridor and associated environmental mitigation measures and utilities	9A, 12

	provision and diversions.	
03/04	Compulsory acquisition of land to construct a new road and railway link as part of the infrastructure corridor and associated environmental mitigation measures and utilities provision and diversions.	9A, 12
03/04a	Compulsory acquisition of land to provide replacement land for common land lost as a result of the Tilbury2 proposals.	9A, 12
03/06	Temporary possession of land to undertake works to the existing Fort Road, the creation of a junction with a new road, and to modify and create new footways and cycleways and to divert utilities.	9C, 10
03/07	Temporary possession of land to provide working space to undertake earthworks; to divert utilities, and to undertake ecological restoration.	10
03/08	Compulsory acquisition of land to construct a new road and railway link as part of the infrastructure corridor, to construct a new spur road, to construct a new permanent site access; to construct bridge abutments; to undertake earthworks, to construct associated environmental mitigation measures, to undertake utilities provision and diversions, and to modify and divert footways and cycleways.	4, 9A, 9C, 12

03/09	Compulsory acquisition of land to construct a new road and railway link as part of the infrastructure corridor; to construct associated environmental mitigation measures, to undertake utilities provision and diversions and to modify and divert footways and cycleways.	9A, 12
03/10	Compulsory acquisition of land to construct a new road and railway link as part of the infrastructure corridor, to construct a junction with the new spur road and the new spur road; to construct associated environmental mitigation measures, to undertake utilities provision and diversions and to modify and divert footways and cycleways.	9A, 9C, 12
03/11	Compulsory acquisition of land to undertake earthworks to provide permanent support for the proposed raising of Fort Road and to divert utilities.	10
03/12	Compulsory acquisition of land to construct a new road and railway link as part of the infrastructure corridor and a permanent site access; to construct associated environmental mitigation measures, to undertake utilities provision and diversions and to modify and divert footways and cycleways.	4, 9A,12
03/13	Temporary possession of land for the improvement and raising of the existing Fort Road and the	10

	construction of a new bridge structure, and tie in of the raised highway to the highway on the existing bridge.	
03/14	Temporary possession of land to undertake works to the surface of the highway on the existing bridge and undertake utilities diversions.	10
03/15	Temporary possession of land to construct traffic management measures and working space for works associated with the highway on the existing bridge and for the creation of the new bridge and undertake utilities diversions.	10
03/16	Compulsory acquisition of land to construct a new railway link to construct associated environmental mitigation measures, and to undertake utilities provision.	6
04/01	Extinguishment of rights in conflict with the carrying out of Work Nos 6 and 8C.	6, 8C
06/01	Temporary possession of land to provide working space for the construction of jetty facilities.	1
06/02	Compulsory acquisition of land (including river bed) for the construction of works for the accommodation and convenience of vessels and their protection zones.	1
06/03, 06/07, 06/08, 06/09	Temporary possession of land to provide working space for the construction of works for the	1,2

	accommodation and convenience of vessels and their protection zones.	
06/04	Temporary possession of land to remove the existing Anglian Water jetty.	1
06/05	Temporary possession of land (including river bed) to remove the existing Anglian Water jetty.	1
06/05a, 06/06	Compulsory acquisition of land (including river bed) for the construction of works for the accommodation and convenience of vessels and their protection zones and the construction of works under Works no 1, 2 and associated works set out following Work 12 in Schedule 1.	1
06/10, 06/11, 06/12	Compulsory acquisition of land (including river bed) in respect of the existing jetty and dolphins and construction of new jetty facilities.	1, 2

## APPENDIX B: COMMUNICATIONS / NEGOTIATIONS WITH OWNERS OF INTERESTS IN LAND

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B.1.1 The below table in this Appendix identifies landholdings affected by the proposals, explains the relationships between owners, tenants/lessees and occupiers, and provide a summary of PoTLL's genuine attempts to enter into and progress negotiations to acquire land or interests in land required for the proposals by agreement, wherever possible.

B.1.2 The table is split by landowner, and includes details of the landowner's affected plots. Each table then includes details of lessees, tenants or occupiers with interests in that land. The status of negotiations with each party is individually set out.

B.1.3 Presumed interests in land such as the presumption that land up to the centre point beneath a highway is owned by the frontagers (ad medium filum) have not been detailed in Appendix B. They are, however, identified in the Book of Reference (document reference 4.3) submitted in support of the Application for the DCO for the proposals and were included in the consultation on them.

B.1.4 PoTLL is aware of the requirement (which is noted in the 2013 DCLG Guidance, at paragraph 25) to seek to acquire land by negotiation wherever practicable, and recognises that authority to acquire land compulsorily should only be sought as part of an order granting development consent if attempts to acquire by agreement fail.

B.1.5 Land already owned by the PoTLL is included in the Order limits with the aim of enabling PoTLL to ensure that no known or unknown third party rights subsisting over such land can remain and impede the proper implementation of the proposals.

B.1.6 Though not all featuring in this Appendix B, all affected parties (including mortgage companies) are listed in the Book of Reference and have been consulted.

<b>Landowner Name</b>	<b>Plots</b>
Nordor Holdings Limited	01/01
<b>Status of Negotiations</b>	
Nordor Holdings Limited was consulted as part of the statutory consultation process. However, as a party registered in the Channel Islands they have proved difficult to engage and they have not engaged further in dialogue with PoTLL. PoTLL will continue to try to move forward and have discussions with this party as the Examination process proceeds.	
<b>Landowner Name</b>	<b>Plots</b>
Thurrock Borough Council	01/01, 01/02, 01/05, 02/01,

	02/02, 02/04, 03/01, 03/03, 03/04, 03/04a, 03/06, 03/13, 03/14, 03/15,
<b>Status of Negotiations</b>	
<p>PoTLL met with the Council and their surveyors to discuss the proposed negotiated acquisition of land on 21.08.17 and 23.08.17 which followed a considerable amount of email correspondence. Email contact has continued but a formal response is still awaited from the Council.</p> <p>PoTLL are in contact with the Council regarding a Statement of Common Ground with the Council for other matters, and it is hoped that agreement can be reached on the land transaction as a separate item.</p>	
<b>Landowner Name</b>	<b>Plots</b>
Cadent Gas Limited	01/02, 01/03, 01/04, 02/02, 03/04, 03/04a
<b>Status of Negotiations</b>	
<p>Cadent Gas were statutorily consulted pursuant to their role as a statutory undertaker for the area, and as explained in Chapter 6 of the Consultation Report, were consulted later on as rights holders.</p> <p>Beyond this, PoTLL has had continued engagement with Cadent Gas in respect of their apparatus on site, and thus the rights which seek to protect these apparatus have also been considered. These discussions are on-going and will lead towards an agreed set of protective provisions within the DCO for Cadent's benefit, such that they will there not be a detriment to their undertaking from the compulsory acquisition and temporary possession proposals for Tilbury2.</p>	
<b>Landowner Name</b>	<b>Plots</b>
Highways England Company Limited	01/02, 01/03, 01/04, 01/05, 02/01
<b>Status of Negotiations</b>	
<p>Negotiations with Highways England on the requisite modifications to the ASDA roundabout have been ongoing since February 2017 with several meetings and correspondence. The design of the modifications is yet to be agreed although discussions are continuing. A Statement of Common Ground with Highways England will include the agreed modifications. Highways England has recognised that delivery of such modifications would involve temporary possession of its land and that this will be managed alongside progressing the works themselves, pursuant to the DCO.</p>	
<b>Landowner Name</b>	<b>Plots</b>
London Distribution Park LLP	01/04, 01/07
<b>Status of Negotiations</b>	
<p>PoTLL is co-owner of London Distribution Park LLP. The latter has therefore been kept informed as part of the management of that estate as to the proposals in respect of the Asda Roundabout given they are located adjacent to the London Distribution Park, and are supportive of the need for modifications at the roundabout for which the temporary possession of this</p>	



plot would facilitate.	
<b>Landowner Name</b>	<b>Plots</b>
Network Rail Infrastructure Limited	02/03, 02/04, 03/01, 03/02, 03/03, 03/12, 03/16
Status of Negotiations	
PoTLL has been in discussions with Network Rail for some time including meeting with its Head of Freight and property teams. Network Rail have provided PoTLL with detailed plans showing title breakdown and from these plans PoTLL's solicitors have identified and requested from NR copies of the relevant documents, which have not yet been provided. NR's plans have identified two small areas of land where NR has no paper title and so ownership will be required to be proven. Discussions continue.	
<b>Landowner Name</b>	<b>Plots</b>
Diana Finnis (née Cole)	03/07, 03/08, 03/11
Status of Negotiations	
See Appendix E for details on investigations and discussions held to date.	
<b>Landowner Name</b>	<b>Plots</b>
James Cole	03/07, 03/08, 03/11
Status of Negotiations	
See Appendix E for details on investigations and discussions held to date.	
<b>Landowner Name</b>	<b>Plots</b>
Executors of Charles Cole (Amanda Mary Harborne, Edith Marion Cole)	03/07, 03/08, 03/11
Status of Negotiations	
See Appendix E for details on investigations and discussions held to date.	
<b>Landowner Name</b>	<b>Plots</b>
Anthony Keller Gothard	03/09, 03/10
Status of Negotiations	
PoTLL made a first offer to acquire the land interests by agreement in June 2017 which was rejected. A second offer made on 12 July 2017. PoTLL chased 06.09.17 requiring a response by 11.09.17 but no response was forthcoming. PoTLL have had further correspondence with the land agent acting for this landowner, who has stated that a full response will be issued week commencing 30 October 2017.	
<b>Landowner Name</b>	<b>Plots</b>
The Queen's Most Excellent Majesty In Right Of Her Crown	06/01, 06/02
Status of Negotiations	
PoTLL and the Crown Estate are in discussions regarding the area of land	

to be occupied and have had a number of meetings pre-application. The Crown Estate have indicated that they are, in principle and subject to commercial terms, agreeable to a long term lease of the seabed under their ownership and PoTLL await their written confirmation in this regard	
<b>Landowner Name</b>	<b>Plots</b>
The Port of London Authority	06/03, 06/05, 06/05a, 06/06, 06/07, 06/08, 06/09, 06/10, 06/11, 06/12, 07/01
Status of Negotiations	
PoTLL and PLA have had a number of discussions regarding the riverbed land required for Tilbury 2. The PLA have indicated that they would wish to retain ownership of the riverbed and in principle following discussions PoTLL may be agreeable to this subject to a long term lease being granted and commercial terms being agreed. Discussions remain ongoing but PoTLL will be reserving compulsory acquisition powers within the DCO to ensure the proposals can be delivered.	
<b>Landowner Name</b>	<b>Plots</b>
Anglian Water Services Limited	06/04, 06/05, 06/05a
Status of Negotiations	
Anglian Water (AWG) has instructed solicitors and provided details of its title to the jetty and its current river works licence relating to the jetty. Documentation is being negotiated between PoTLL and AWG to acquire the jetty and good progress is being made. There was a meeting between PoTLL and AWG on 13 October to progress outstanding issues and the agreed principles are now to be discussed by AWG and PoTLL with their respective solicitors with a view to incorporating an agreed position into the documents as soon as possible.	
<b>Landowner Name</b>	<b>Plots</b>
Eastern Power Networks Plc	01/04
Status of Negotiations	
Eastern Power Networks Plc is part of the UK Power Networks family of companies, as such their assets have been considered as part of the wider discussions with UK Power Networks set out below.	
<b>Tenant/Occupier Name</b>	<b>Plots</b>
Vodafone Limited	03/09
Status of Negotiations	
PoTLL have been in discussions with Vodafone and have received an initial response on the proposal to relocate the equipment confirming that there are no issues. A plan was provided to Cluttons, on behalf of Vodafone, regarding the relocation of the mast and a substantive response is awaited but PoTLL continue to liaise with Cluttons.	
<b>Tenant/Occupier Name</b>	<b>Plots</b>
Highways England Company Limited	01/06

Status of Negotiations	
See discussions in respect of Highways England's landownerships above.	
<b>Tenant/Occupier Name</b>	<b>Plots</b>
Sue Cole, Jeremy Godsmark Finnis and Diana Finnis (née Cole) (t/a CH Cole & Sons)	03/07, 03/08, 03/11
Status of Negotiations	
The Cole and Finnis' occupancy of this land has been considered as part of the wider discussions set out elsewhere in this Appendix.	
<b>Tenant/Occupier Name</b>	<b>Plots</b>
Anthony Keller Gothard	03/12
Status of Negotiations	
Mr Gothard's occupancy of this land has been considered as part of the wider discussions set out elsewhere in this Appendix.	
<b>Right holder</b>	<b>Plots</b>
Essex and Suffolk Water Limited	01/01, 01/02, 01/05, 01/06, 01/07, 02/02, 03/08, 03/13
Status of Negotiations	
<p>Essex and Suffolk Water were statutorily consulted pursuant to their role as a statutory undertaker for the area, and as explained in Chapter 6 of the Consultation Report, were contacted later on as a rights holder.</p> <p>Beyond this, PoTLL has had engagement with Essex and Suffolk Water in respect of their apparatus on site, and thus the rights which seek to protect these apparatus have also been considered. These discussions are on-going – there is a set of protective provisions included in the draft DCO which would apply to Essex and Suffolk Water's apparatus, such that there will not be a detriment to their undertaking from the compulsory acquisition and temporary possession proposals for Tilbury2.</p>	
<b>Right holder</b>	<b>Plots</b>
UK Power Networks (Operations) Limited	01/01, 01/02, 01/03, 01/04, 01/07, 02/01, 02/02, 03/06, 03/08, 03/13, 03/16, 04/01
Status of Negotiations	
<p>UK Power Networks were statutorily consulted pursuant to their role as a statutory undertaker for the area, and as explained in Chapter 6 of the Consultation Report, were contacted later on as a rights holder.</p> <p>Beyond this, PoTLL has had engagement with UK Power Networks in respect of their apparatus on site, and thus the rights which seek to protect these apparatus have also been considered. These discussions are on-going – there is a set of protective provisions included in the draft DCO which would apply to UK Power Networks' apparatus, such that there will not be a detriment to their undertaking from the compulsory acquisition and</p>	

temporary possession proposals for Tilbury2.	
<b>Right holder</b>	<b>Plots</b>
Openreach Limited	01/01, 01/02, 01/04, 01/05, 01/06, 01/07, 02/01, 02/02, 03/08, 03/13, 03/14, 03/15, 04/01
Status of Negotiations	
As set out in Chapter 6 of the Consultation Report, this party was identified late on in the land referencing process, so were not consulted as part of the formal statutory consultation process, but were contacted later on. However, PoTLL has engaged with this party outside of the statutory consultation process (including before the formal statutory consultation period) in respect of apparatus that could be impacted by the proposals. These discussions are continuing and any conclusions will be reflected in the DCO where appropriate.	
<b>Right holder</b>	<b>Plots</b>
National Grid Gas Plc – assets now held by Cadent Gas Limited	01/02, 01/03, 01/04, 02/02, 03/04, 03/04a
Status of Negotiations	
See Cadent Gas Limited above	
<b>Right holder</b>	<b>Plots</b>
Anglian Water Services Limited	01/02, 01/03, 01/04, 01/05, 02/02, 03/03, 03/04, 03/04a, 03/14, 03/15, 03/16, 04/01
Status of Negotiations	
As set out above in relation to their land ownerships.	
<b>Right holder</b>	<b>Plots</b>
The Secretary of State for Transport	01/04, 02/01
Status of Negotiations	
The Secretary of State's rights in this plot pre-date the transfer of strategic highways powers to Highways England. As such, this interest will be considered as part of the wider discussions with Highways England, as set out above.	
<b>Right holder</b>	<b>Plots</b>
The Port of London Authority	01/04, 06/04
Status of Negotiations	
As set out above in relation to their land ownerships.	
<b>Right holder</b>	<b>Plots</b>
Amazon UK Services Limited	01/07

<b>Status of Negotiations</b>	
<p>Amazon were consulted under section 42(d) and submitted a response in relation to their concerns that improvements should be made to the Asda roundabout and that sustainable transport should be supported; both of which are promoted as part of the proposals. The temporary possession of this plot will facilitate the modifications supported by Amazon at the Asda Roundabout. As a party that is also an occupier of the London Distribution Park in which Amazon sits, and which will benefit from this work, PoTLL is in continuing dialogue with this party as part of on-going commitments to managing sustainable travel for the park. This will continue to ensure that the temporary possession of this plot is undertaken in a manner that will be agreeable to Amazon's operations as part of continuing sustainable travel at the park.</p>	
<b>Right holder</b>	<b>Plots</b>
Travis Perkins (Properties) Limited	01/07
<b>Status of Negotiations</b>	
<p>Travis Perkins (Properties) Limited were consulted under section 42(d). As a party that is also an occupier of the London Distribution Park in which Travis Perkins sits, and which will benefit from this work, PoTLL is in continuing dialogue with this party as part of on-going commitments to managing sustainable travel for the park. This will continue to ensure that the temporary possession of this plot is undertaken in a manner that will be agreeable to Travis Perkins' operations as part of continuing sustainable travel at the park.</p>	
<b>Right holder</b>	<b>Plots</b>
Legal and General Pensions Limited	01/07
<b>Status of Negotiations</b>	
<p>PoTLL through its joint venture company London Distribution Park LLP have been in recent negotiations with Legal and General Limited in respect of the development of the London Distribution Park which is adjacent to the works at Asda Roundabout, which this plot facilitates. Legal and General are therefore aware of these proposals, and have not raised any objection to them through the consultation process. Furthermore, due to the recent negotiations with them, PoTLL is not aware that the short term temporary possession that may be required in this plot will cause damage to the nature of their interest.</p>	
<b>Right holder</b>	<b>Plots</b>
Roxhill (Tilbury) Limited	01/07
<b>Status of Negotiations</b>	
<p>Roxhill (Tilbury) Limited and Roxhill Developments Limited are co-owners and development partners with PoTLL in respect of the nearby London Distribution Park LLP. They have therefore been kept informed as part of the management of that estate as to the proposals in respect of the Asda Roundabout given they are located adjacent to the London Distribution Park, and are supportive of the need for modifications at the roundabout for which the temporary possession of this plot would facilitate.</p>	
<b>Right holder</b>	<b>Plots</b>

Roxhill Developments Limited	01/07
<b>Status of Negotiations</b>	
Roxhill (Tilbury) Limited and Roxhill Developments Limited are co-owners and development partners with PoTLL in respect of the nearby London Distribution Park LLP. They have therefore been kept informed as part of the management of that estate as to the proposals in respect of the Asda Roundabout given they are located adjacent to the London Distribution Park, and are supportive of the need for modifications at the roundabout for which the temporary possession of this plot would facilitate.	
<b>Right holder</b>	<b>Plots</b>
E.S. Pipelines Limited	01/07
<b>Status of Negotiations</b>	
E.S. Pipelines Limited confirmed through the statutory consultation process that they do not have any affected apparatus within the Order limits and confirmed that they therefore do not object to the proposals.	
<b>Right holder</b>	<b>Plots</b>
Environment Agency	03/03
<b>Status of Negotiations</b>	
Ongoing-engagement has been undertaken with the Environment Agency (EA) in respect of the watercourses that they control. This has included discussions as to the access for maintenance of such watercourses once the infrastructure corridor is completed, which is reflected in the Book of Reference. The protective provisions for the EA's benefit will provide that the EA will be able to continue to access watercourses for maintenance, subject to the terms of the protective provisions.	
<b>Common Right holder</b>	<b>Plots</b>
Alexander Glenny Anthony Gothard The Executors of Allen Cole Allen Jones Lorna Jones Andrew Osborne Christine Osborne Anthony Barnett Barry Taylor Christopher Beeny Karen Beeny David Smith Isama Smith Guy Cox Hayley Aldis Jeremy Finnis Diana Finnis (née Cole) John Dornan John Walsham	03/07, 03/08, 03/11

<p>Amanda Walsham  Martin Dunne  Peter Adams  Valerie Bentley  Peter Barnett  The Executors Robert Cole  Stephen Butler  Vicky Butler  Steven Austin  Frances Austin  Amanda Harbone  Ann Claxton  Ann Cole  Dawn Pledger  Kathryn Finnis  Sheila Cole  Sheila Hodson  C H Cole and Sons  Sue Cole  AWG Land Holdings Limited  Thurrock Borough Council  RWE Generation UK PLC</p>	
<p>Status of Negotiations</p>	
<p>See Appendix E for details on investigations and discussions held to date.</p>	
<p><b>Right holder</b></p>	<p><b>Plots</b></p>
<p>Plancast Limited</p>	<p>03/08, 03/09, 03/13</p>
<p>Status of Negotiations</p>	
<p>As set out in Chapter 6 of the Consultation Report, this party was identified late on in the land referencing process, so were not consulted as part of the formal statutory consultation process but were contacted later on as a rights holder. The party responded on 20 October 2017 in response to that contact, confirming the nature of land rights held.</p> <p>Whilst PoTLL proposes to include a standard set of protective provisions for the benefit of telecoms network operators (by reference to the electronic communications code) within the draft DCO, PoTLL does not consider the omission to consult this party in the formally prescribed manner during the statutory consultation as prejudicing these parties in respect of their land interests, particularly where PoTLL has already engaged with them and continues to seek to do so. They will have a number of opportunities to continue direct engagement and agreement and to make representations on the proposals and be fully heard during the examination. Furthermore, PoTLL fully intends, should this DCO application be accepted for examination, to include this party on a precautionary and inclusive basis in its lists of relevant persons to be notified under section 56 of the Act.</p>	



<b>Right holder</b>	<b>Plots</b>
Zayo Group UK Limited	03/13, 06/08, 06/09, 06/10, 06/12
<b>Status of Negotiations</b>	
As set out in Chapter 6 of the Consultation Report, this party was identified late on in the land referencing process, so were not consulted as part of the formal statutory consultation process but were contacted later on as a rights holder. However, PoTLL has engaged with this party outside of the statutory consultation process in respect of apparatus that could be impacted by the proposals. As part of this engagement, they have confirmed that their interest in this area is a third party interest in a Virgin Media asset and that enquiries should therefore be directed to Virgin Media.	
<b>Right holder</b>	<b>Plots</b>
Virgin Media Limited	03/13, 06/08, 06/09, 06/10, 06/12
<b>Status of Negotiations</b>	
PoTLL has undertaken continuous engagement with Virgin Media in respect of the rights associated with their apparatus, and is confident that an agreement position can be reached, likely with reference to telecommunications protective provisions within the DCO.	
<b>Right holder</b>	<b>Plots</b>
Level 3 Communications Limited	03/08, 03/15
<b>Status of Negotiations</b>	
As set out in Chapter 6 of the Consultation Report, this party was identified late on in the land referencing process, so were not consulted as part of the formal statutory consultation process but were contacted later on as a rights holder.	
<p>However, given PoTLL's proposal to include a standard set of protective provisions for the benefit of telecoms network operators (by reference to the electronic communications code) within the draft DCO, PoTLL does not consider the omission to consult these parties in the formally prescribed manner during the statutory consultation as prejudicing these parties in respect of their land interests, particularly where PoTLL has already engaged with them and continues to seek to do so. They will have a number of opportunities to continue direct engagement and agreement and to make representations on the proposals and be fully heard during the examination. Furthermore, PoTLL fully intends, should this DCO application be accepted for examination, to include this party on a precautionary and inclusive basis in its lists of relevant persons to be notified under section 56 of the Act.</p>	
<b>Right holder</b>	<b>Plots</b>
KPN International	03/06, 03/13
<b>Status of Negotiations</b>	
As set out in Chapter 6 of the Consultation Report, this party was identified	

late on in the land referencing process, so were not consulted as part of the formal statutory consultation process, but were contacted later on as a rights holder. However, PoTLL has engaged with this party outside of the statutory consultation process in respect of apparatus that could be impacted by the proposals. These discussions are continuing and any conclusions will be reflected in the DCO where appropriate.

<b>Right holder</b>	<b>Plots</b>
National Grid Electricity Transmission plc	03/06, 03/13

**Status of Negotiations**

PoTLL has undertaken continuous engagement with National Grid in respect of the rights associated with their apparatus, and is confident that an agreement position can be reached, likely with reference to protective provisions within the DCO.



## **APPENDIX C: EXPLANATIONS RELATING TO ALTERNATIVE ROUTES FOR STOPPED UP STREETS, STREETS SUBJECT TO PROHIBITION OF USE THROUGH TRAFFIC REGULATION MEASURES AND PRIVATE MEANS OF ACCESS TO BE STOPPED UP**

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### **C.1 Streets subject to prohibition of use through traffic regulation measures**

- C.1.1. If development was granted and the proposals were implemented, then motor vehicles would be prohibited from using a short section of the existing highway known as the A1089 Ferry Road (which is proposed to be reclassified under the DCO).
- C.1.2 Vehicles would instead be able to use an adjacently provided new section of highway, which would connect to the new road link that forms part of the infrastructure corridor. Access would be retained to this short section of highway for cyclists and pedestrians.

### **C.2 General description of the streets and private means of accesses to be stopped up and to be substituted and other streets, new streets and new means of access**

- C.2.1 The general effect of the proposals upon streets and private access, and of substitute proposals, is set out below for each Sheet of the Rights of Way and Access Plans:

#### Sheet 1 of the Rights of Way and Access Plans

The roundabout known as the 'Asda Roundabout' would be improved through the modification of kerbings, footways and road markings as well as the construction of a new subsidiary deflection island.

#### Sheet 2 of the Rights of Way and Access Plans

#### **Highway to be Improved**

A 322 metre section of the existing Fort Road would be improved commencing from the centre point of the existing Fort Road at a point approximately 328 southwest of the centre point of the bridge where the existing Fort Road passes over the existing railway line known as the London to Tilbury line continuing in a north easterly direction to its junction with the proposed Fort Road to Infrastructure Corridor Link Road (Reference C) to be constructed then continuing in a north-easterly direction then northerly direction to the centre point of the existing Fort Road at a point 11 metres south of the centre point of the bridge where the existing highway Fort Road passes over the existing railway line known as the London to Tilbury line.

### **New Highway to be Provided**

A length of new highway (Reference A) to be known as A1089 St Andrew's Road would be provided commencing from a point 213 metres south east from the centreline of the point where the existing highway known as A1089 Ferry Road meets the existing footway to the footbridge known as the Hairpin Bridge continuing for approximately 94 metres in a south-easterly direction to its junction with the proposed new highway that will link with the existing A1089 Ferry Road (to be reclassified) (Work No. 9B); then continuing in an easterly, then north-easterly direction for a distance of approximately 900 metres to a junction with the proposed Fort Road to Infrastructure Corridor Link Road (Reference C); then continuing in a north-easterly direction for approximately 90 metres to a point approximately 186 metres west-south-west of the centre point of the bridge where the existing Fort Road passes over the existing railway line known as the London to Tilbury line.

A length of new highway (Reference B) would be provided commencing from a point at its junction with the proposed A1089 St Andrew's Road (Reference A) approximately 419 metres north of the centre point of the existing Riverside Rail Freight Terminal roundabout and continuing in a southerly direction for approximately 165 metres to the centre point of the existing A1089 Ferry Road (to be reclassified) approximately 256 metres north-north-east of the centre point of the existing Riverside Rail Freight Terminal roundabout.

A length of new highway (Reference C) would be provided commencing from a junction with the proposed A1089 St Andrew's Road (Reference A) at a point 273 metres west-south-west of the centre point of the bridge where the existing Fort Road passes over the existing railway line known as the London to Tilbury line and continuing in a south-easterly direction to a junction with the proposed improved Fort Road at a point 287 metres southwest of the centre point of the bridge where the existing Fort Road passes over the existing railway line known as the London to Tilbury line.

A length of new highway (Reference D) would be provided to the east and west of the existing Fort Road where the width of the new highway falls outside the existing highway boundary limits.

### **Private Means of Access to be stopped up for which a substitute is to be provided.**

An existing access (Reference a) to premises (occupied by PoTLL, Anglian Water and UK Power Networks) from the existing Fort Road would be stopped up from its junction with the existing Fort Road for a distance of 165 metres in an easterly direction and will be replaced by a new private means of access from the proposed A1089 St Andrew's

Road (Reference A) at a point 186 metres southwest of the centre point of the bridge where the existing Fort Road passes over the existing railway line known as the London to Tilbury line and continuing in an easterly direction for approximately 250 metres to connect to the existing private means of access.

**Public Right of Way which is stopped up and for which no substitute is to be provided**

The existing public footpath 144 would be stopped up for a length of approximately 345 metres from a point 162 metres south of its junction with the existing highway known as the Beeches in a southerly then easterly then southerly direction to the southern highway boundary of the proposed A1089 St Andrew's Road (Reference A).

Sheet 3 of the Rights of Way and Access Plans

A 40m section of Footpath 146 commencing 82 metres east of where it presently passes under the Anglian Water jetty would be stopped up from its 'definitive' position and replaced by a route (Reference A) that follows the desire line in this location, which would enable safe crossing /under the floating pontoon proposed as part of the proposals.

**APPENDIX D: LIST OF STATUTORY UNDERTAKERS AND OTHER  
SIMILAR BODIES HAVING OR POSSIBLY HAVING A RIGHT TO KEEP  
EQUIPMENT ON, IN OR UNDER THE LAND WITHIN THE ORDER LIMITS**

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Essex And Suffolk Water Limited
UK Power Networks (Operations) Limited
Openreach Limited
National Grid Gas Plc
Anglian Water Services Limited
E.S. Pipelines Limited
Environment Agency
AWG Land Holdings Limited
RWE Generation UK PLC
Plancast Limited
National Grid Electricity Transmission Plc
Vodafone Limited
KPN
Level 3 Communications Limited
Virgin Media Limited
Zayo Group Limited



**APPENDIX E: SUMMARY OF INVESTIGATIONS UNDERTAKEN TO  
ESTABLISH OWNERSHIP OF COMMON LAND AND COMMON RIGHTS**

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**PART A – COMMON LAND OWNERSHIP**

No.	Investigation	Undertaken by	Date	Comments
1	SIM Search: HM Land Registry	WM	09.06.2016	Disclosed titles downloaded and reviewed – no relevant historic conveyances
2	Network Rail Search	Atkins	16.12.2016	Discloses extent of Network Rail ownership but needs to be verified by Network Rail.
3	CON290 search enquiry 22 (Common Land and TGV)	WM	12.08.2016	Confirms extent of common land but does not address underlying ownership. Emails to Thurrock Council (dated 2.3.2017) querying whether there have been any updates to the commons register – substantive response not received.
4	Meeting with Diana Cole at Orsett	POTLL	20.01.2017	Diana Cole claims to be the owner of the common land, together with her brother James Cole, as ultimate beneficiaries of the estate of Charles Henry Cole.
5	Meeting with Alexander Creed (agent to the Cole family) ('AC')	POTLL	01.02.2017	
6	Illustrative Map Search	WM	13.02.2017	All disclosed titles downloaded
7	Notices displayed on the land in question	POTLL	09.02.17 – 17.04.17	
8	Notices advertised in local press	POTLL	09.02.17 – 17.04.17	

No.	Investigation	Undertaken by	Date	Comments
9	Liaison with Roythornes - solicitors to the Cole family: undertaking for costs provided to allow Roythornes to prove the title of the Cole family to the common land and to make voluntary application for first registration.	POTLL/WM	21.03.17 - ongoing	<ul style="list-style-type: none"> <li>• 21.03.17 – Email – WM to Roythornes requesting confirmation of instructions and deduction of title.</li> <li>• 3.4.17 – Email Roythornes to WM confirming instructions and requesting costs undertaking and plans of land required.</li> <li>• 4.4.17 – Email – WM to Roythornes confirming WM will secure instructions from POTLL to provide undertaking and plans and copies of WM search results.</li> <li>• 24.04.17 – Email - Roythornes to WM requesting costs undertaking.</li> <li>• 24.04.17 – Email – Roythornes to WM confirming required costs level.</li> <li>• 25.04.17 – Email – WM to Roythornes requesting confirmation of amount of proposed costs: noting undertaking conditional upon</li> </ul>

No.	Investigation	Undertaken by	Date	Comments
				<p>satisfactory deduction of title.</p> <ul style="list-style-type: none"> <li>• 19.05.17 – Email – WM to Roythornes producing costs undertaking (with clearance and funds to support from POTLL).</li> <li>• 14.07.17 – Email – WM to Roythornes requesting update on title deduction.</li> <li>• 17.07.17 – Email – WM to Roythornes requesting update on title deduction.</li> <li>• 18.07.17 – Email – Roythornes to WM advising title deduction is the Decision on the Common Register dated 6 July 1979. Roythornes offered to provide title deduction from 1979 to current day (wills/probate)</li> <li>• 20.07.17 – Email – WM to Roythornes requesting call back to discuss.</li> <li>• 19.07.17 and 21.07.17 – Calls – 2 calls WM to Roythornes (going to voicemail) to discuss</li> </ul>

No.	Investigation	Undertaken by	Date	Comments
				<p>title. Implication is that Diana and James are beneficial owners only. Legal title remains with the executors of Charles Henry Coles' Estate.</p> <ul style="list-style-type: none"> <li>• 24.07.17 – Call Roythornes to WM to discuss title. (POTLL/WM reviewing title options on this basis).</li> <li>• 17.08.2017 – Emails between WM and Roythornes referring to and subsequently attaching completed Hattens statutory declaration and draft statutory declaration for Diana Cole prepared in support of title deduction.</li> <li>• 24.08.2017 – Emails between WM and Roythornes querying extent of instruction (regarding requirement to make voluntary application to Land Registry and relevant persons with legal title to the land).</li> <li>• 29.08.2017 – Email from WM to Roythornes providing further background and information</li> </ul>

No.	Investigation	Undertaken by	Date	Comments
				<p>regarding the exercise being undertaken and DCO application, asking for a fee estimate to make a voluntary application for registration at Land Registry and suggesting an all parties call to further explain and discuss.</p> <ul style="list-style-type: none"> <li>• 30.08.2017 – Email from Roythornes regarding costs estimate for voluntary application and arranging all parties call. Response from WM to confirm call and provide offer documents.</li> <li>• 05.09.2017 - All parties call with Alexander Creed, Roythornes, WM and POTLL regarding progression of deal with Coles and agreement to make a voluntary application for registration ahead of dealing and ahead of DCO application.</li> <li>• 07.09.2017 – Email from WM to follow up from call and provide comments on the statutory declarations and first</li> </ul>

No.	Investigation	Undertaken by	Date	Comments
				<p>registration application process.</p> <ul style="list-style-type: none"> <li>• 19.09.2017 – WM issued draft documents to Roythornes regarding the acquisition of the common land.</li> <li>• Negotiations ongoing.</li> </ul>
10	Various correspondence with Alexander Creed	POTLL/WM	March - present	<ul style="list-style-type: none"> <li>• 02.03.17 – Email – AC to POTLL updating rights holders spreadsheet.</li> <li>• 03.03.17 – Email – AC to POTLL setting out (alleged) ownership and requesting costs.</li> <li>• 06.03.17 – Call – WM and POTLL with AC to discuss common land ownership of Cole family.</li> <li>• 10.03.17 – Letter – WM to AC enclosing WM site investigations in relation to common land ownership.</li> <li>• 14.03.17 – Email – AC to POTLL – chasing up plans and introducing the Conservator</li> </ul>



No.	Investigation	Undertaken by	Date	Comments
				<p>and attaching a table setting out ownership of Cole family.</p> <ul style="list-style-type: none"> <li>• 20.03.17 – Email – AC to WM commenting on the ownership of the Cole family of the common land and confirming that the Cole family have not sold stints. Confirming identity of Cole's solicitors, Roythornes.</li> <li>• 20.03.17 – Email – WM to AC commenting on AC's title land comments and confirming that WM will liaise with Roythornes.</li> <li>• 07.04.17 – Call – POTLL with AC chasing up: AC accepted evidence of title required and agreed to speak to solicitors for the Cole family.</li> <li>• 20.04.17 – Letter – AC to POTLL enclosing Cole family's response to common land rights notices.</li> <li>• 23.06.17 – Email – AC to POTLL querying costs undertaking position and POTLL subsequently confirmed</li> </ul>

No.	Investigation	Undertaken by	Date	Comments
				<p>position i.e. costs undertaking is conditional upon deduction of title capable of registration and not actual registration itself.</p> <ul style="list-style-type: none"> <li>• 10.08.2017 – offer letter sent to AC in relation to Option to be entered into with Cole family.</li> <li>• 23.08.2017 – Counter offer received by POTLL from AC on behalf of the Cole Family.</li> <li>• 29.08.2017 – POTLL accepted counter offer</li> <li>• 05.09.2017 - All parties call with Alexander Creed, Roythornes, WM and POTLL regarding progression of deal with Coles and agreement to make a voluntary application for registration ahead of dealing and ahead of DCO application.</li> </ul>
11	Further review of adjoining registered titles	WM	17.07.2017	No relevant historic documents available; did not add to title investigation.

## PART B – COMMON RIGHTS OWNERSHIP

No.	Investigation	Undertaken by	Date	Comments
1	Downloading and review of commons register with Thurrock Council	WM	July and August 2016	
2	Land Registry MapSearch carried out in respect of all plans showing ownership of land to which commons rights attach as contained in the commons register	WM	August 2016	
3	All titles disclosed by Land Registry map search referred to at 2 above downloaded and reviewed to ascertain current ownership of land to which common rights attached, to verify current ownership of common rights	WM	August 2016	
4	Electoral Register for Thurrock downloaded and current address for all owners of common rights verified against that disclosed by title entries downloaded at 3 above	WM	March 2017	
5	Record of owners of common rights prepared by WM verified with Strutt & Parker (agent for the Cole family)	WM	March 2017	
6	Grants of probate for relevant members of the Cole family secured to verify succession and correct identity of executor's where an owner of common rights is deceased	WM	February/March 2017	
7	Numerous calls with Diana Cole/Alexander Creed re common rights ownership by Cole family	POTLL	February/March 2017	See Part A paragraph 10.
8	Discussions with Allen Jones - Conservator of the	WM	March/April 2017	See Part A paragraph 11.

No.	Investigation	Undertaken by	Date	Comments
	Common Committee managing 500 stints			
9	Review of Commons Regulation (West Tilbury) Provisional Order Confirmation Act 1893 (and ancillary Bye Laws)	WM	March/April 2017	
10	Notices displayed on the land in question	POTLL	09.02.17 – 17.04.17	
11	Notices advertised in local press	POTLL	09.02.17 – 17.04.17	
12	Letters issued to all potential common rights holders, as identified through investigations set out above	POTLL	14 April 2017	
13	Call/correspondence with the Clerk to the Conservators, Allen Jones	WM/POTLL	March 2017 – ongoing	<ul style="list-style-type: none"> <li>• 28.03.17 – Call – WM, POTLL and the Clerk to update on role of Conservator and position of stint holders.</li> <li>• 28.03.17 – Email – WM to the Clerk attaching commons register and requesting clarification of position of the stint holders and request that the Clerk check back previous meeting minutes to clarify if they know how AWG dealt with commons land (deregistration / exchange) when they developed their adjoining</li> </ul>

No.	Investigation	Undertaken by	Date	Comments
				<p>site.</p> <ul style="list-style-type: none"> <li>• 13.04.2017 – Email from WM to the Clerk seeking contact details for CH Cole &amp; Sons as stint holder.</li> <li>• 26.04.17 – Call - POTLL to the Clerk chasing up required information.</li> <li>• 08.04.17 – Call from WM to Clerk to further discuss background to the Conservators, role played, operation of stints and current use and management of the common land.</li> <li>• 19.09.2017 – POTLL (John Speakman) to meet with Conservators.</li> <li>• 25.09.2017 – Meeting between POTLL and the Conservators regarding acceptability of the Replacement Land.</li> </ul>

No.	Investigation	Undertaken by	Date	Comments
				<ul style="list-style-type: none"><li data-bbox="1615 252 2007 619">• 04.10.2017 - Call from WM to Clerk asking for update on letter to John Speakman confirming acceptance of Replacement Land and update on correspondence with DEFRA – message left asking for call back.</li></ul>

## APPENDIX F: LAND NEGOTIATIONS TRACKER

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<b>Landowner</b>	<b>Plots</b>	<b>Category</b>	<b>Notes</b>
Nordor Holdings Limited	01/01	<b>1</b>	
Thurrock Borough Council	01/01, 01/02, 01/05, 02/01, 02/02, 02/04, 03/01, 03/03, 03/04, 03/04a, 03/06, 03/13, 03/14, 03/15,	<b>1</b>	
Cadent Gas Limited (previously National Grid Gas plc)	01/02, 01/03, 01/04, 02/02, 03/04, 03/04a	<b>2, SU</b>	
Highways England Company Limited	01/02, 01/03, 01/04, 01/05, 02/01	<b>1</b> <b>SU</b>	
London Distribution Park LLP	01/04, 01/07	<b>1</b>	
Network Rail Infrastructure Limited	02/03, 02/04, 03/01, 03/02, 03/03, 03/12, 03/16	<b>1</b> <b>SU</b>	



Diana Finnis (née Cole)	03/07, 03/08, 03/11	<b>1</b>	
James Cole	03/07, 03/08, 03/11	<b>1</b>	
Anthony Keller Gothard	03/09, 03/10	<b>1 and 2</b>	
The Queen's Most Excellent Majesty In Right Of Her Crown	06/01, 06/02	<b>1</b>	
The Port of London Authority	06/03, 06/05, 06/05a, 06/06, 06/07, 06/08, 06/09, 06/10, 06/11, 06/12, 07/01	<b>1 and 2</b>	
Vodafone Limited	03/09	<b>1 and 2</b>	
Highways England Company Limited	01/06	<b>1</b>  <b>SU</b>	
Sue Cole, Jeremy Godsmark Finnis and Diana Finnis	03/07, 03/08, 03/11	<b>1</b>	

(née Cole) (t/a CH Cole & Sons)			
Anthony Keller Gothard	03/12	<b>1 and 2</b>	
Essex and Suffolk Water Limited	01/01, 01/02, 01/05, 01/06, 01/07, 02/02, 03/08, 03/13	<b>2</b> <b>SU</b>	
UK Power Networks (Operations) Limited (including Eastern Power Networks plc)	01/01, 01/02, 01/03, 01/04, 01/07, 02/01, 02/02, 03/06, 03/08, 03/13, 03/16, 04/01	<b>2</b> <b>SU</b>	
Openreach Limited	01/01, 01/02, 01/04, 01/05, 01/06, 01/07, 02/01, 02/02, 03/08, 03/13, 03/14, 03/15, 04/01	<b>2</b> <b>SU</b>	
Anglian Water Services Limited	01/02, 01/03, 01/04, 01/05, 02/02, 03/03, 03/04, 03/04a, 03/14, 03/15, 03/16, 04/01, 06/04, 06/05, 06/05a	<b>1 and 2</b> <b>SU</b>	
The Secretary of State for Transport	01/04, 02/01	<b>2</b>	

The Port of London Authority	01/04, 06/04	1 and 2	
Amazon UK Services Limited	01/07	2	
Legal and General Pensions Limited	01/07	2	
Roxhill (Tilbury) Limited	01/07	2	
Travis Perkins (Properties) Limited	01/07	2	
Roxhill Developments Limited	01/07	2	
E.S. Pipelines Limited	01/07	2 SU	
Environment Agency	03/03	2	
<b>Common Land</b>  Interests held by:  Alexander Glenny	03/07, 03/08, 03/11	2	

Anthony Gothard			
The Executors of Allen Cole			
Allen Jones			
Lorna Jones			
Andrew Osborne			
Christine Osborne			
Anthony Barnett			
Barry Taylor			
The Executors of Charles Cole			
Christopher Beeny			
Karen Beeny			
David Smith			
Isama Smith			

Guy Cox			
Hayley Aldis			
Jeremy Finnis			
Diana Finnis (née Cole)			
John Dornan			
John Walsham			
Amanda Walsham			
Martin Dunne			
Peter Adams			
Valerie Bentley			
Peter Barnett			
The Executors of Robert Cole			
Stephen Butler			
Vicky Butler			
Steven Austin			

Frances Austin			
Amanda Harbone			
Ann Claxton			
Ann Cole			
Dawn Pledger			
Kathryn Finnis			
Sheila Cole			
Sheila Hodson			
C H Cole and Sons Sue Cole			
AWG Land Holdings Limited			
Thurrock Borough Council			
RWE Generation UK PLC			
UK Power Networks			

(Operations Limited)			
Zayo Group UK Limited	06/08, 06/09, 06/10, 06/12	<b>2, SU</b>	
Virgin Media Limited	03/13, 06/08, 06/09, 06/10, 06/12	<b>2, SU</b>	
Level 3 Communications Limited	03/08, 03/15	<b>2, SU</b>	
KPN International	03/06, 03/13	<b>2, SU</b>	
National Grid Electricity Transmission plc	03/06, 03/13	<b>2, SU</b>	