

Robert Ranger
Case Manager
The Planning Inspectorate
National Infrastructure
Temple Quay House
Temple Quay
Bristol
BS1 6PN

15 January 2019

Our Ref: PoTLL/T2/EX/230
Your ref: TR030003

Dear Mr Ranger,

Planning Act 2008

Draft Port of Tilbury (Expansion) Order for “Tilbury2”

Response to further consultation by the Secretary of State

Further to the Secretary of State's letter dated 7 January 2019, please find below Port of Tilbury London Limited's ('PoTLL') responses to the queries raised in the letter:

1. Network Rail

1.1 Agreement on all outstanding matters has been reached and we note that Network Rail has today withdrawn its objection.

2. Disapplication of water abstraction legislation

2.1 We have seen the Environment Agency's (EA) letter to you of today's date and note that the EA says it does not wish to give consent under section 150 of the Planning Act 2008 to the disapplication of section 24 of the Water Resources Act 1991 "*in part because there are third party abstraction rights which could be affected by the development and the Environment Agency would therefore prefer the applicant to seek consent for dewatering from the construction works through the abstraction licensing regime which is designed to protect these rights*".

2.2 Our understanding is that the EA's main concern is its liability to third parties for damage caused by water abstraction, and specifically for claims arising and brought pursuant to section 48A of the 1991 Act. We have previously proposed modifications to the EA's protective provisions which made it clear that the EA would not be responsible for any such impacts on third parties but have not received a substantive response or any engagement by the EA, despite making it clear that we would be open to any suggestions or further changes which the EA Agency may require.

2.3 We have therefore responded to the EA's letter today by asking the EA to let us know if what we have suggested is insufficient and if so, why it is. The EA's letter also refers to 'in part' and so we have asked the EA for its other reasons behind its current position on section 24.



2.4 We will update you on these continuing discussions as soon as possible.

3. **Section 106 Agreement**

3.1 A copy of the completed version of this agreement was provided to the Secretary of State with our letter dated 10 January.

4. **Drainage Protective Provisions**

4.1 PoTLL understands that Thurrock Council has written to you to confirm that the revised set of protective provisions submitted with our letter dated 21 December 2018 are agreed by the Council.

5. **The Crown Estate**

5.1 By way of update to PoTLL's letter of 21 December 2018, we expect to be in a position to confirm tomorrow that Crown consent under section 135(1) and section 135(2) of the Planning Act 2008 has been formally obtained from The Crown Estate. The terms of the consent have been agreed with The Crown Estate and all that remains is for the relevant documentation to be completed legally.

5.2 We therefore hope to be able to send to you tomorrow a copy of the signed letter of consent from The Crown Estate.

5.3 In the meantime I would like to highlight that the agreed terms of the Crown consent include an agreed modified version of article 56 (Crown rights) of the draft DCO. I have replicated the agreed wording below:

"56.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the Company to take, use, enter on or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

(a) belonging to Her Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;

(b) belonging to Her Majesty in right of the Crown and not forming part of the Crown Estate without the consent in writing of the government department having the management of that land; or

(c) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically."

5.4 If you have any questions on any of these matters, please do not hesitate to contact our legal advisers: matthew.fox@pinsentmasons.com or robbie.owen@pinsentmasons.com.

Yours sincerely



PETER WARD
COMMERCIAL DIRECTOR
PORT OF TILBURY LONDON LIMITED