

INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010, RULE 10**PROPOSED NORTH FALLS OFFSHORE WIND FARM DEVELOPMENT CONSENT ORDER****PINS REFERENCE EN010119****WRITTEN REPRESENTATIONS OF LONDON GATEWAY PORT LIMITED (IP REF: 20050576)****Introduction and Background**

- 1 London Gateway Port Limited (**LGPL**), LG Park Freehold Limited and LG Park Leasehold Limited (collectively "**DPWLG**") are the owners and operators of DP World London Gateway Port (**the Port**) and DP World London Gateway Logistics Park (**the Logistics Park**) on the north bank of the Thames Estuary in Stanford-le Hope, Essex. LGPL is the statutory harbour authority for the Port as empowered by the London Gateway Port Harbour Empowerment Order 2008 (S.I. 2008/1261) (**the HEO**).
- 2 The Port is a Nationally Significant Infrastructure Project (NSIP) and makes a significant contribution to the national economy¹. Once fully developed, the Port will comprise deep sea shipping and container handling facilities with an annual throughput that will equate to approximately 27% of the predicted national growth in such trade by 2030 (Ref: Paragraph 3.4.3 of National Policy Statement for Ports – January 2012).
- 3 The Logistics Park will provide up to approximately 740,000sq.m of vital commercial floorspace. Both the Port and Logistics Park are of national significance and importance and are part of the Thames Freeport.
- 4 To facilitate current and future shipping, LGPL has powers under article 13 of the HEO to dredge in certain areas of the river Thames and the approaches to the river Thames. In particular, LGPL may dredge (and maintain dredged) areas of the navigational channel known as 'The Sunk' down to a depth of 17.5m below Chart Datum (**CD**²).
- 5 'The Sunk' area is also proposed to be subject to Work No 3 under the proposed Order – see Sheet 2 of the Works Plans (Offshore) [**AS-020**]. Work No. 3 comprises "*up to two cable circuits between Work No. 2 and Work No. 4A, including one or more cable crossings*" (Part 1 of Schedule 1 to the dDCO [**REP1-011**]). It is permitted as a licensed activity under the deemed marine licence (DML) in Part 1 of Schedule 9 to the dDCO as part of paragraph 2 to that licence. In addition to the laying of cable, paragraph 2 provides that in connection with Work No. 3 further associated development may be carried out as may be necessary or expedient for that purpose, including cable protection measures such as the placement of rock and / or concrete mattresses.
- 6 The proposed Five Estuaries Offshore Wind Farm development consent order application currently in Examination includes very similar powers for the applicant in that scheme in the same areas as are sought for Work No. 3 by the applicant in this scheme.

¹ Paragraph 3.3.6 of National Policy Statement for Ports recognises the essential contribution to the national economy that international and domestic trade makes through the UK's Ports.

² Reference in these Representations to Chart Datum are to be understood as Ordnance Datum (Newlyn).

DPWLG Concerns

- 7 The proposed export cable corridor (**the "ECC"**) crosses the Deep Water Routes into the Port of London – comprising the Sunk and Trinity which lead to Black Deep (referred to as the **"DWRs"**). The DWRs are the only approaches available for larger vessels to access the Port. The DWRs are currently both used for entry and exit into/from the Port but in the future, as vessels get bigger, it may be necessary for one DWR route to be used for entry and one for exit. As shown on Sheet 2 of the Work Plans (Offshore) **[AS-020]**, Work No. 3 crosses through both the Sunk and Trinity areas.
- 8 The North Falls Offshore Windfarm Project works have the potential to cause short and long-term impacts to navigation and to the capacity and operation of the Port, particularly from the works associated with the ECC. These impacts include permanent (P) and temporary (T) impacts arising from:
 - (a) cable depths (P)
 - (b) survey activity, cable laying and repair/maintenance (T)
 - (c) installation activities effects on depths (T)
 - (d) interaction with third party schemes (cable crossings (P) and simultaneous operations (T))
 - (e) the safety zones (P and T)
 - (f) dredging (T)
 - (g) changes in cable depth due to changes in riverbed/sea (P)
- 9 The range of impacts vary from vessel displacement and delays to placing a constraint on the size of vessel that achieve access to the Port and thus, its future growth and overall capacity.
- 10 Presently in the dDCO **[REP1-011]** there is no parameter regarding the depth at which the cables and any cable protection must be placed to maintain appropriate dredged depths in the DWRs. For example, no relevant parameter is set out in the requirements at Part 3 of Schedule 1 to the dDCO and nor in the DML at Part 1 of Schedule 9 to the dDCO. (Similarly, there is no detail on cable depth in the Cable Statement **[APP-262]** save only for a reference to a "target minimum cable burial depth of 0.6m below the seabed surface depending on the outcome of the cable burial risk assessment" – see para 19 of **[APP-262]**.) If the cables or their protection are laid at too shallow a depth, they will preclude the use of the DWRs by certain vessels and will interfere with LGPL's statutory undertaking at DP World London Gateway Port and the exercise by LGPL of its powers to dredge under the HEO.
- 11 LGPL is also concerned regarding the temporary impacts on navigation to and from the Port caused by the carrying out of the works for Work No 3.

Relevant Policy

- 12 Detrimental impacts to shipping would conflict with the policies and objectives set out in the National Policy Statement for Ports, which demonstrates the essential role that UK ports play in supporting the regional and national economy.

- 13 Any such impacts would also conflict with the policies and objectives in respect of navigation and shipping set out in the National Policy Statement for Renewable Energy Infrastructure (EN-3). In particular, we make reference to Paragraph 2.8.326 to 2.8.331 and 2.8.335 of the National Policy Statement for Renewable Energy Infrastructure (EN-3).

Modifications Sought by LGPL

- 14 LGPL are of the view that a Requirement must be added to the draft DCO [REP1-011] to secure a position that the passage of vessels with drafts of up to 20m should not be precluded by the authorised development and, for that purpose, to secure that the seabed within the DWRs can be dredged to a depth of at least 22m below CD.
- 15 The Requirement not to preclude the specified dredge depth should be seen as a fundamental parameter to, or restriction on the carrying out of the authorised development – it is in a sense akin to an upwards limit of deviation. It is for the Order itself to specify such a restriction – this is in accordance with the Guidance on the content of a Development Consent Order required for a Nationally Significant Infrastructure Project [Paragraph 003, Reference ID 04-003-20240430 and Paragraph 008, Reference ID 04-008-20240430] and would follow accepted practice across other development consent orders and harbour orders under the Harbours Act 1964.
- 16 It is not appropriate for such a restriction only to be secured in a third-hand way by virtue of being a factor set out in plan (the cable specification and installation plan – referenced in Condition 22(h) of the DML in Part 2 of Schedule 9 to the dDCO [AS-022]) not yet seen but to be approved in the future by the MMO. Such an approach provides no guarantee to the Secretary of State (or interested parties such as LGPL) that this restriction will be applied – it may end up diluted or conditioned in a way that is not presently contemplated.
- 17 Accordingly, we would propose a requirement be added to Part 3 of Schedule 1 in the following terms:

"Maintenance of Navigation

3A-(1) The undertaker must ensure that in the design, implementation, operation and maintenance of the authorised development and ancillary works, a dredged depth of the Deep Water Routes to a depth of 22m below CD is not precluded or impeded.

(2) The undertaker must ensure that in the design, implementation, operation and maintenance of the authorised development and ancillary works, a dredged depth of the Deep Water Routes Buffer to a depth of 19m below CD is not precluded or impeded.

(3) The undertaker must not relocate any boulders or archaeological finds to the Deep Water Routes or the Deep Water Routes Buffer."

- 18 This would also require the inclusion of the following definitions:

""Deep Water Routes" means those parts of the Order limits within the Sunk and Trinity channels that are respectively more particularly shown [xxxxx] on [plan];"

""Deep Water Routes Buffer" means those parts of the Order limits within an area 200m either side of the Sunk channel that are more particularly shown [xxxxx] on [plan];"

(Plan showing those parts of the Sunk and Trinity channels within the limits of Work No. 3 to be agreed with the Applicant)

- 19 Following on from the above proposals for an additional Requirement to protect future dredge depths, certain amendments to the Protective Provisions for the Protection of London Gateway Port in Part 7 of Schedule 14 to the dDCO **[REP1-011]** necessarily flow. In addition to the inclusion of the Requirement set out above to secure the dredge depth, there remains the need for LGPL's involvement in the draft cable specification and installation plan as is already contemplated in the protective provisions to the Order. This is largely due to its importance in relation to programme and methodology for the relevant works. However, the logic of this must also be applied across to any future maintenance activities for cable remedial burial, cable repairs and replacement and cable protection replenishment which falls within the conditions set out within Schedule 9, Part 2 to the Order and which is within the scope of the operations and maintenance plan, not the cable specification and installation plan (see condition 13 to the DML in Part 1 of Schedule 9 to the dDCO **[REP1-011]**).
- 20 There are certain other amendments to the Protective Provisions in Part 7 of Schedule 14 which LGPL seeks to protect its powers under the HEO which LGPL hopes to be able to agree with the applicant shortly.
- 21 In relation to Condition 13(3) of the DML in Part 2 of Schedule 9 to the dDO **[REP1-011]**, following through from our representations with regard to the need for a Requirements in Part 3 of Schedule 1 above, the permissible reduction in water depth of up to 5% must not apply to the DWRs, where such reduction would have the effect of inhibiting the ability to dredge the seabed to a depth of at least 22m below CD.

Addleshaw Goddard LLP
4 March 2025