

Planning Act 2008

Marine and Coastal Access Act 2009

The Proposed Tidal Lagoon Swansea Bay (Generating Station) Order

Development Consent Obligation Heads of Terms

February 2014

Document Reference: 8.6

Author: DLA Piper UK LLP

PLANNING ACT 2008

THE PROPOSED TIDAL LAGOON SWANSEA BAY (GENERATING STATION) ORDER PROPOSED DRAFT DEVELOPMENT CONSENT OBLIGATION

HEADS OF TERMS

1. This document sets out Heads of Terms for a proposed development consent obligation to be concluded in conjunction with an application for a development consent order ("DCO") under the Planning Act 2008. A development consent obligation is an obligation under section 106 of the Town and Country Planning Act as amended by the Planning Act 2008.
2. **Principal Parties**
 - 2.1 The City and County of Swansea Council ("CCSC");
 - 2.2 The Neath Port Talbot County Borough Council ("NPTCBC"); and
 - 2.3 Tidal Lagoon (Swansea Bay) plc ("TLSB"); and
3. **Site/Development**
 - 3.1 TLSB is applying to the Secretary of State for Energy and Climate Change ("Secretary of State") for a DCO to authorise construction and operation of a tidal powered generating station (the "Project") on the seabed south of and connecting to Swansea Docks (between the dredged channels of the Rivers Tawe and Neath) and certain land in the City and County of Swansea and in Neath Port Talbot County Borough.
 - 3.2 TLSB does not currently own any part of the application site, but is negotiating for its acquisition. TLSB is also applying for powers of compulsory acquisition in respect of the Project.
 - 3.3 In light of the absence of land that can be bound by a development consent obligation it is proposed to use the DCO to give effect to the obligation as if that were the case and so as to bind land at such time as it is acquired by TLSB.
4. **Overarching National Policy Statement for Energy - EN-1 (NPS EN-1) and development consent obligations**
 - 4.1 Paragraph 4.1.8 of NPS EN-1 requires that in determining an application for development consent the Secretary of State may take into account any development consent obligation(s) agreed with the local planning authority. These must:
 - 4.1.1 be relevant to planning;
 - 4.1.2 necessary to make the development acceptable in planning terms;
 - 4.1.3 directly related to the development;

- 4.1.4 fairly and reasonably related in scale and kind to the development; and
- 4.1.5 reasonable in all other respects.
- 4.2 All the obligations outlined below are considered to comply with the requirements set out above.

5. Traffic and Transport

5.1. Operational signage

TLSB will provide highway signage from the Project to the strategic road network and other locations.

5.2. Shuttle bus and bicycle parking;

5.2.1. TLSB will provide bus stop(s) at the western landfall of the lagoon to enable bus service departures and arrivals;

5.2.2. TLSB will provide a shuttle bus service to the Project from the Park & Ride facility on Fabian Way subject to investigation of its viability; and

5.2.3. TLSB will provide bicycle racks at the western landfall of the lagoon.

5.3. Water shuttle

TLSB will provide a jetty on the western seawall to facilitate a water shuttle serving the Project from the west bank of the River Tawe and/or Mumbles.

5.4. Travel Plans &c.

TLSB will provide:

5.4.1. A Construction Travel Management Plan;

5.4.2. An Operational Travel Management Plan; and

5.4.3. A Major Events Travel Management Plan

6. Environment

6.1. TLSB will provide visitor information boards or viewing platform located at the eastern landfall of the Project for the benefit of the Crymlyn Burrows SSSI.

6.2. TLSB will provide access to the public realm comprised in the Project, subject to an ability to take measures so that the public may not access the public realm as of right.

6.3. TLSB will provide a budget for a scheme to secure a programme of comprehensive ecological enhancement in association with Swansea University, including but not limited to:

6.3.1. Funding a 10–year programme of reintroduction of the native oyster in to Swansea Bay, creation of spatting ponds and control areas within the footprint of the Project;

- 6.3.2. Creation and maintenance of the enhancement salt marsh comprised in the Project
- 6.3.3. Employing a stone mason during construction for the purposes of the creation of rock pools and habitats for bi-valves, reef fish and other fauna;
- 6.3.4. Funding of ongoing study and monitoring of fish movements, artificial reef structures, limestone and rock pools located on the sea walls;
- 6.3.5. Creation of a laboratory and hatchery area forming part the boating and sailing centre comprised in the Project;
- 6.3.6. Funding for two “C-PODS” – acoustic devices to monitor cetacean movements in and around the Project;
- 6.3.7. Study of the Mumbles Pier area of Swansea Bay – in order to replicate the mix of habitats and creatures found there on the tidal lagoon itself; and
- 6.4. TLSB will provide a scheme to regulate bathing waters within and in the vicinity of the Project, which may include the following:
 - 6.4.1.1. restrictions on areas used for swimming;
 - 6.4.1.2. sampling and monitoring; and
 - 6.4.1.3. a joint working group with CCSC in relation to its own bathing waters responsibilities.
- 6.4.2. TLSB will provide a scheme to examine fishery improvements including:
 - 6.4.2.1. establishment of a fisheries reference group comprising:
 - a. TLSB
 - b. CCSC
 - c. The Angling Trust
 - d. Pontardawe and Swansea Angling Society
 - e. [*other relevant stakeholder bodies*]

(to the extent that they wish to be included) to investigate improvements to the existing Tawe Barrage fish pass;
 - 6.4.2.2. A financial or in kind contribution for the provision of engineering and environmental design expertise to such an exercise; and

subject to (i) a design being produced which demonstrates a material benefit to performance of the existing Tawe Barrage fish pass in terms of the numbers of fish passing over the fish pass and (ii) securing match funding for such improvements, funding for provision of an improved fish pass.

7. Community Provisions:

- 7.1. TLSB will provide a visitor centre/educational facility (or more than one) as part of the Project which may include:
 - 7.1.1. a hatchery;
 - 7.1.2. laboratory facilities; and
 - 7.1.3. a sailing/ boating centre.
- 7.2. TLSB will design, create and run during construction an education programme encompassing primary, secondary and tertiary level education. Within the education facility it will provide space for learning and class visits for on-going educational programmes once the lagoon commences operation.
- 7.3. TLSB will support a local employment scheme to secure the use of local labour, contractors, and goods and services during the construction of the Project, so far as lawful and practicable. (TLSB will also use the local employment scheme with regard to staffing the visitor centre/educational facility.)
- 7.4. TLSB will fund an academic post at Swansea University dedicated to the study of tidal lagoons, including on-going research and/or improvement in to the operation of artificial reef structures.

8. Public Art

- 8.1. TLSB will fund three cultural public art competitions that will be run as national and international competitions in order to fund world class art and sculpture in the sea on and around the lagoon wall. These will be principally:
 - 8.1.1. A hero sculpture that appears and disappears with the rise and fall of the tide;
 - 8.1.2. Art works along the lagoon wall; and
 - 8.1.3. Sculptures within the water of the lagoon.

DLA Piper UK LLP

6 February 2014