



Infrastructure Planning Directorate
Planning Inspectorate
Temple Quay House
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Bristol
BS1 6PN

Our ref: RA/2015/132060/05-L01
Your ref: EN60004
Our ID: 10031562
Date: 27 November 2015

DEADLINE 4 SUBMISSIONS

Dear Sir/Madam

A REPLACEMENT HIGH-PRESSURE GAS PIPELINE WITHIN A BORED TUNNEL BENEATH THE HUMBER ESTUARY AND ASSOCIATED DEVELOPMENT, INCLUDING A CONNECTING PIPELINE, MINOR MODIFICATIONS TO PAULL ABOVE GROUND INSTALLATION AND ASSOCIATED TEMPORARY LAY DOWN, WORKING AND MITIGATION AREAS. FROM PAULL, EAST RIDING OF YORKSHIRE TO GOXHILL, NORTH LINCOLNSHIRE.

We would like to provide the following deadline 4 submissions:

Summary of Oral Representations

Topic Based Hearing (17 November 2015) – A summary of the Environment Agency's deadline 3 submissions on flood risk was provided:

- Incorrect climate change allowances have been utilised. However, we do not consider the error to be so significant that the conclusions of the FRA are invalidated;
- The flood bunds surrounding the drive and reception pits will provide some protection from flood risk. We have asked that the relevant section in the CEMP be amended to set the 3.4mAOD height as a minimum not an absolute value. Whilst we made clear that, the higher the bunds were, the more protection they would provide, we did acknowledge that a nominal increase in their height would not fundamentally alter the fact that in a present day 'design flood' event, they would be ineffective at keeping out flood waters from either a breach of the tidal defences or from a tunnel collapse;
- We reiterated our position on tunnel collapse, describing that the risk from this

scenario is a function of both probability and consequence and making clear that we do not feel we have sufficient expertise or remit to pass judgment on the probability component. We are however content that the FRA now presents sufficient information to allow the potential consequences of a tunnel collapse to be understood. It is now for the ExA to satisfy itself that the risks are acceptable;

- We explained our desire for the minimum cover to be increased in the area where the Environment Agency hopes to deliver a managed realignment site. We have requested changes to the limits of deviation in the DCO and expect this to be reflected in subsequent drafts of the DCO;
- We highlighted the importance of the Flood Incident Response Plan and the need to consult with the Humber emergency planning team. We provided the name, Alan Bravy at East Riding of Yorkshire Council as a contact. We clarified the limitations of the Environment Agency's role in this matter;
- We explained that the information presented in the FRA Addendum on third party increases in fluvial flood risk was unclear at present, making it very difficult to properly assess the impacts. We confirmed that discussions had taken place with the applicant's consultants and that we expected further clarity to be provided at deadline 4;
- In relation to the discharge of water from the site, we highlighted that there was some confusion about current proposals since the introduction of the groundwater reinjection option. We highlighted the potential option of a discharge into the Thorngumbald pumping station as a potential alternative to pumping and hosing over the flood defence bank and suggested that it be further investigated;
- We also highlighted that we have requested the addition of a requirement securing the monitoring of flood defence settlement. The need for the monitoring is not, however, in dispute.

A summary of the Environment Agency's deadline 3 submissions on groundwater was also provided:

- There are two key pieces of new evidence which have allowed us to withdraw our previous objections. These are the pump test results and interpretative report, and the Hydro-geological Impact Assessment Addendum. Together these improve understanding of the hydro-geology and introduce a new mitigation strategy involving the reinjection of groundwater. Whilst some uncertainty remains, the flexibility of the new mitigation strategy should allow it to be adjusted to suit any likely variations to the hydro-geology subsequently uncovered by through the Main Works Contractor's additional investigations;
- Requirement 5, the final wording of which is still being discussed with the applicant, provides the main mechanism for securing the necessary mitigation measures. Various measures in the CEMP also add to this;
- We confirmed that we had not undertaken a review of the Phase 2 Ground Investigation submitted at deadline 3. Whilst we had previously taken a look at the Phase 1 work, our position was that any hydro-geological evidence gathered through the phase 2 work, will have been reflected in the HIA Addendum.

A question was asked about spoil management and the need for a waste management plan up front:

- The Environment Agency has a three-fold role in spoil:
 - We are interested in the flood risk implications of spoil being stored in the floodplain – these concerns had already been addressed in the flood risk section, but we confirmed that our understanding was that the FRA had been undertaken on the basis of a worst case assessment of spoil storage in the floodplain.
 - We are a regulator of waste under the Environmental Permitting Regulations (2010) – we have not had any pre-permit application discussions with the applicant, but have seen nothing to suggest that there are any showstoppers to the necessary permits being obtained. We will be the regulator of any permitted facility which may receive the waste arising from the project, but we have not undertaken an assessment of whether adequate capacity exists in existing facilities to receive the waste in question. The waste types and quantities any site is capable of receiving are governed and regulated under the relevant permit. It was highlighted that avoiding waste material going to waste facilities was strongly self-regulating due to the costs associated with this. It is entirely within the applicant's best interest to find a proximal and beneficial use for the material;
 - We also have an interest in the spoil insofar as we may be a potential recipient of the spoil in order to make use of it in the construction of flood defences. However, it was made clear that no agreement had been reached on this point given uncertainty about both the quantity and nature of the material available, and uncertainty about our flood risk management activities and what material would be needed where and when.
- We confirmed that the relevant Environmental Permit would provide the controls necessary to protect the environment;
- We confirmed that, whilst we would not have a problem with a site waste management plan being provided up front as part of the DCO application, we did not feel this was necessary on the basis that requirement 4, in conjunction with the CEMP and any relevant Environmental Permit, would provide all the necessary controls to protect the environment.

During the discussion with the RSPB about the project's impacts on birds, mention was made about a mitigation/enhancement option affecting East Halton Skitter near the tidal flood doors. We asked to be kept in the loop on any such discussions as the tidal doors are an operational flood risk asset for the Environment Agency, so we will need to fully understand the implications of any mitigation/enhancement option affecting this area.

We were asked by the ExA to confirm our position on Water Framework Directive compliance. Our position is that the implications of the project on WFD have been adequately addressed in the supporting documentation and that the mitigation measures proposed will ensure that the project will not result in the contravention of any WFD objective.

We were asked by the ExA if we had any particular concerns about the flexibility in the DCO which would allow the drive pit to be located closer to the estuary. We explained that there could be some implications for flood risk, such as some

increases in potential flood depths and the speed of onset of flooding. These would need to be fully considered in the Flood Incident Response Plan in consultation with emergency planning officers. There may also be some implications for groundwater management, although we are confident that the mitigation strategy is sufficiently flexible to deal with a range of potential scenarios.

Development Consent Order Hearing (18 November 2015, AM) – We raised a number of points about the DCO drafting:

- In relation to Article 3 we flagged that this might have implications for the relevant Lead Local Flood Authorities and/or Internal Drainage Boards. As such, positive confirmation should be sought from them in relation to any proposed disapplication which may affect their functions;
- In relation to Article 6 we reiterated our point about the need for minimum cover of at least 1.7m beneath the area proposed for a managed realignment site;
- In relation to Article 14 we highlighted that we had concerns about the right to create new access routes which might affect flood defences and our other operational assets. We requested that the right to create accesses affecting flood risk management infrastructure be precluded;
- In relation to Article 17(5) we requested that reference be made to the need for consent under section 109 of the Water Resources Act. However, it was acknowledged that there was some confusion between the parties about this matter, given Article 3 now proposes to disapply s109 of the Water Resources Act. Further legal discussions are taking place;
- Concerns were raised about Articles 22(4), 26(1a) and 27(1a) which provide that the undertaker could take temporary possession of any land within the order limits. We expressed concern about this taking place on land used for operational flood risk purposes and suggested that we may need remedies in the above clauses and in the protective provisions. Discussions on this matter will continue with the applicant and their representatives;
- We offered a word of caution about the proposed amendment to requirement 5 which would result in the insertion of a cross-reference to the Initial Site Water Management Plan. Because the plan does not include the new groundwater management strategy of reinjection, the final plan could be a considerable departure from this provisional document. As such, the insertion of any such text should be flexibly worded such that it does not inadvertently preclude the agreed measures.

Compulsory Acquisition Hearing (18 November 2015, PM) – We made a number of representations in relation to our land interest:

- We highlighted that we had outstanding objections in relation to plots 20, 21, 22, 24, 28, 29 and 54 which weren't represented in the spreadsheet being discussed at the hearing. However, we also confirmed that we had, on the morning of the hearing, signed heads of terms on two easement for the above plots;
- We made clear that should our negotiations on the above plots be brought to completion, those provisions in the DCO allowing compulsory acquisition would need to be deleted in full;

- We reiterated our concerns about Articles 22(4), 26(1a) and 27(1a) which provide that the undertaker could take temporary possession of any land within the order limits. We expressed concern about this taking place on land used for operational flood risk purposes and suggested that we may need remedies in the above clauses and in the protective provisions. Discussions on this matter will continue with the applicant and their representatives.

Should you require any additional information or clarification, please don't hesitate to contact me on the details below.

Yours faithfully

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