

# Southampton to London Pipeline Project

## Volume 6

Environmental Statement (Volume B)  
Chapter 2: Regulatory and Policy Context  
Application Document: 6.2

Planning Inspectorate Reference Number: EN070005  
APFP Regulation No. 5(2)(a)  
Revision No. 1.0  
May 2019



(This page is intentionally left blank)



**Contents**

<b>2</b>	<b>Regulatory and Policy Context .....</b>	<b>1</b>
2.1	Legislation .....	1
2.2	National Planning and Energy Policy .....	3
2.3	References .....	5



## 2 Regulatory and Policy Context

### 2.1 Legislation

2.1.1 This chapter sets out a summary of the key environmental legislation and national policy relevant to this project. This chapter is supported by two appendices:

- Appendix 2.1 Environmental Legislation, presents a summary of legislation applicable to the environmental topics (Chapters 7 to 14) and how the project has considered these.
- Appendix 2.2 Regional and Local Policy, provides an overview of regional and local planning policies that, although not directly applicable, have been considered by the project.

2.1.2 At the time of writing, the UK Government is committed to leaving the European Union but the UK has not yet left. The following EU Directives have been transposed into UK legislation and in each case the name of the UK legislation is set out below. During any implementation period the UK is committed to not regressing from European levels of protection and that implementation period will last until after this application is determined. We will, therefore, continue to refer to the relevant European Directives.

#### **Directive 2014/52/EU on the assessment of the effects of certain public and private projects on the environment**

2.1.3 Environmental Impact Assessment (EIA) is required under EU Directive 2014/52/EU on the assessment of the effects of certain public and private projects on the environment (the EIA Directive). The EIA Directive has been transposed into UK law through several regulations, including the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

#### **The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017**

2.1.4 The EIA Directive has been implemented in UK law within a number of Regulations. The Regulations which are relevant to Nationally Significant Infrastructure Projects (NSIPs) are the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). These Regulations potentially apply '*in respect of a pipe-line which is intended to convey oil or gas*'.

2.1.5 Under the Regulations paragraph 16 of Schedule 1, a scheme is Schedule 1 if it fulfils the following criteria:

*'16. Pipelines with a diameter of more than 800 millimetres and a length of more than 40 kilometres for the transport of*

*(a) gas, oil or chemicals*

*(b) carbon dioxide streams for the purposes of geological storage, including associated booster stations.'*



The proposed replacement pipeline would have a diameter of 300mm and is not therefore Schedule 1 Development.

- 2.1.6 As set out in Chapter 1 Introduction, the replacement pipeline is considered to fall under the scope of Schedule 2 of the EIA Regulations. Schedule 2 projects only require EIA if they are deemed likely to have significant effects on the environment by virtue of their nature, scale and location.
- 2.1.7 Although not directly relevant to NSIPs the Government's National Planning Practice Guidance states that EIA is likely to be required for pipelines exceeding an indicative threshold of 5km (3 miles) in length, and that the environmental sensitivity of the route should be considered. This advice is material to the proposal. The current pipeline to be replaced is 90km (56 miles) in length, and the replacement pipeline route is 97km (60 miles) in length. The pipeline route passes through environmentally sensitive areas and ecological sites designated under European and national legislation, densely populated areas, and landscapes of historical, cultural or archaeological importance.
- 2.1.8 Given that the length of the project route far exceeds the indicative threshold of 5km (3 miles), and sections of the route are environmentally sensitive, Esso considers that this project is a Schedule 2 EIA Development and has produced this Environmental Statement (ES) to support the application for development consent.
- 2.1.9 The EIA Regulations set out a number of deliverables which may be included within the EIA process. The main deliverables required are:
- Screening Opinion: It is not mandatory to request a Screening Opinion. Esso has not requested a Screening Opinion from the Secretary of State, but at the time of submitting the Scoping Report, notified the Secretary of State of their intention to submit an ES for the project.
  - Scoping Opinion: Esso has submitted a non-mandatory request for a Scoping Opinion to agree on the matters to be addressed in the EIA and presented in the ES. The Scoping Report (Esso, 2018) was submitted to the Planning Inspectorate on 26 July 2018. The Scoping Opinion was adopted by the Secretary of State on 5 September 2018. Details are included in Chapter 5 Consultation and Scoping.
  - Environmental Statement: This ES has been submitted to the Planning Inspectorate alongside the application for development consent.
- 2.1.10 The EIA Regulations 5(2) state that the EIA must '*identify, describe and assess in an appropriate manner, in light of each individual case, the direct and indirect significant effects of the proposed development on the following factors:*
- a) *population and human health;*
  - b) *biodiversity, with particular reference to species and habitats protected under Directive 92/43/EEC and 2009/147/EC;*
  - c) *land, soil, water, air and climate;*
  - d) *material assets, cultural heritage and landscape; and*
  - e) *the interaction between the factors referred to in sub-paragraphs (a) to (d).'*



- 2.1.11 Regulation 5(4) states that the EIA includes, where relevant, *'the expected significant effects arising from the vulnerability of the proposed development to major accidents or disasters that are relevant to the development.'* These factors are addressed within Chapters 7 to 13, and Chapter 14 Major Accidents.
- 2.1.12 In addition to the above factors, Schedule 4(5)(e) of the EIA Regulations states that a description should be included of the significant effects arising from *'the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources'*. This requirement is addressed within Chapter 15 Cumulative Effects.
- 2.1.13 There is a requirement under the EIA Regulations paragraph 32(1) that *'This regulation applies where... the development is likely to have significant effects on the environment in another European Economic Area state'*. No transboundary effects have been identified for the project. This is documented in the Transboundary Screening document received from the Planning Inspectorate and dated 2 October 2018 (Planning Inspectorate, 2018).

### **Pipeline Safety Regulations 1996**

- 2.1.14 The Pipeline Safety Regulations 1996 define a range of general duties which are applicable for all pipelines, and additional duties for major accident hazard pipelines which transport products defined as dangerous fluids. The design of the replacement pipeline has been developed in accordance with Esso's design standards for fuel pipelines, relevant industry codes of practice and standards and the requirements of the Pipeline Safety Regulations 1996.

## **2.2 National Planning and Energy Policy**

### **Planning Act 2008**

- 2.2.1 The replacement pipeline is a NSIP which will require development consent under the Planning Act 2008 (PA 2008). The project meets the criteria of Section 21 (Other pipe-lines) of the PA 2008, which applies to the construction of cross-country pipe-lines, which are defined under the Pipe-Lines Act 1962 Chapter 58 3(1)(a) as *'a pipe-line whose length exceeds or is intended to exceed ten miles'* (about 16 km).
- 2.2.2 Section 104 of PA 2008 outlines the importance of National Policy Statements (NPS) to the decision making process when applications for development consent are under consideration. Section 104 (2) states, *inter alia*:

*'In deciding the application the [Secretary of State] must have regard to—*

*(a) any national policy statement which has effect in relation to development of the description to which the application relates (a "relevant national policy statement")'...*

*(d) any other matters which the [Secretary of State] thinks are both important and relevant to [the Secretary of State's] decision.'*



- 2.2.3 The Planning Statement (**application document 7.1**) reviews the project against national planning policy. In this case there are two relevant NPSs. These are:
- The Overarching National Policy Statement for Energy (EN-1); and,
  - National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4).

### **Overarching National Policy Statement for Energy (EN-1)**

- 2.2.4 NPS EN-1 sets out the Government's overarching policy with regard to the development of NSIPs in the Energy sector. It outlines the high level objectives, policy and regulatory framework. EN-1 emphasises the need for new energy projects to contribute to a secure, diverse and affordable energy supply. This is to support the Government's policies on sustainable development, in particular by mitigating and adapting to climate change.
- 2.2.5 EN-1 sets out detailed policies in respect of matters such as air quality and emissions, biodiversity, dust and odour, flood risk, historic environment, landscape, land use, noise and vibration, socio-economic, traffic and transport and waste management. These policies have been taken into account in the preparation of the ES.
- 2.2.6 EN-1 para 3.9.3 identifies that *'The UK needs to ensure it has safe and secure supplies of the oil products it requires. Sufficient fuel and infrastructure capacity are necessary to avoid socially unacceptable levels of interruption to physical supply and excessive costs to the economy from unexpectedly high or volatile prices. These requirements can be met by sufficient, diverse and reliable supplies of fuel, with adequate capacity to import, produce, store and distribute these supplies to customers. This in turn highlights the need for reliable infrastructure including refineries, pipelines and import terminals and the need for flexibility in the supply chain to accommodate the inevitable risk of physical outages.'*
- 2.2.7 Para 3.9.4 notes that *'Finished petroleum products are distributed from the refineries to around 50 major distribution terminals in the UK by pipeline (51%) ...'*. Para 3.9.5 identifies the importance of this pipeline network, highlighting that it provides *'... an extensive network of private and Government owned pipelines in the UK, with around 4,800km of pipeline currently in use. The 2,400km of privately owned UK pipeline network carries a variety of oil products from road transport fuels to heating oil and aviation fuel. The network provides an efficient and robust distribution system across the UK and directly provides jet fuel for some of the UK's main airports.'*
- 2.2.8 NPS EN-1 para 3.9.8 notes that any consideration of applications for new oil distribution pipelines should *'start its assessment from the basis that there is a significant need for this infrastructure to be provided.'*

### **National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4)**

- 2.2.9 NPS EN-4 specifically relates to gas supply infrastructure and gas and oil pipelines. Sections 2.19 - 2.23 provide guidance on oil and gas pipelines, and specific policies on noise and vibration, biodiversity, landscape and visual impacts, water quality and



resources, soil and geology. These policies have also been taken into account in the relevant ES topic chapter.

- 2.2.10 NPS EN-4 para 2.1.2 repeats the statements from NPS EN-1, noting that '*In particular, EN-1 sets out the Government's conclusion that there is a significant need for new major energy infrastructure generally (see Part 3 of EN-1).*'

### **National Planning Policy Framework**

- 2.2.11 The revised National Planning Policy Framework (NPPF) was published in February 2019. This identifies in paragraph 5 that it '*does not contain specific policies for nationally significant infrastructure projects. These are determined in accordance with the decision-making framework in the Planning Act 2008 (as amended) and relevant national policy statements for major infrastructure, as well as any other matters that are relevant (which may include the National Planning Policy Framework).*' While NPS EN-1 and EN-4 remain the prime decision-making documents, where they do not provide guidance, each topic chapter has considered whether there is important and relevant guidance in the NPPF that may require consideration by the decision-making authority. At this stage it is not possible to confirm if such secondary guidance will be considered important or relevant by the Secretary of State and it is included for completeness to allow the Secretary of State to make such a determination.

### **National Planning Practice Guidance**

- 2.2.12 National Planning Practice Guidance includes specific guidance on EIA procedures including indicative thresholds for screening Schedule 2 projects.
- 2.2.13 The Guidance states that EIA is likely to be required for pipelines exceeding an indicative threshold of 5km in length, and that the environmental sensitivity of the route should be considered.

### **Regional and Local Planning Policies**

- 2.2.14 Regional and local planning policies have also been referenced within the EIA process. Further information on these policies can be found within Appendix 2.2 Regional and Local Planning Policy.
- 2.2.15 As set out in paragraph 2.2.2, the NPSs are the primary basis for decision making, but the Secretary of State must also have regard to any other matters which he or she thinks are both important and relevant to the decision and this could include regional and local planning policies.

## **2.3 References**

Esso (2018). Southampton to London Pipeline Project: Scoping Report (Volume 1). Planning Inspectorate Reference Number EN070005. July 2018.

Planning Inspectorate (2018). Transboundary screening undertaken by the Planning Inspectorate on behalf of the Secretary of State for the purposes of Regulation 32 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. Reference EN070005.