

**ESSO's comments to
submissions and answers
to ExA Questions Deadline**

3

**Application by ESSO Petroleum Company Ltd
for an Order Granting Development
Consent for the Southampton to London
Pipeline Project**

Application Reference EN070005

Interested Party Reference 20022787

Internal Reference 19/00432/PINS

1. Applicants comments on responses submitted for Deadline 3

1.1 Comments to RBC's Deadline 3 submission

1.1.1 The applicant prepared a response to our legal case to which RBC provided further information at Deadline 5. ESSO provided no other comments of note.

1.2 Comments to Mr Michael Francis Deadline 3 Submission

1.2.1 Mr Francis is a professional engineer, a Fellow of the Institution of Civil Engineers, with more than 40 years' experience designing and building tunnels and utility projects. The Council fully supports his view that HDD is feasible within the park without impacting on the trees with Farnborough Hill School.

1.2.2 RBC has taken advice from Mr Francis on possible options to limit the impact of the works on QEP. Debbie Salmon and the Neighbours and Users of Queen Elizabeth Park (N&UQEP) have visited QEP to explore the proposed options and are of the view we have found a solution that would only lead to the loss of dense bramble, rhododendron and young birch.

1.2.3 RBC and N&UQEP believe that ESSO could HDD from the car park along the path coming up within the area of bramble situated on the left of the path. RBC will provide a map of this for the examination. ESSO could then HDD under the woodland and come up within Farnborough School without impacting on any trees within the school. The short HDD should provide enough space to enable stringing out to be undertaken within the play area and the car park for the short HDD and between the large beech trees to the left of the bramble, birch and rhododendron patch. Mr Francis has confirmed this to be a perfectly viable option that will lead to very little impact to the trees within QEP and no impact to the veteran trees within Farnborough School.

1.3 Comments to Nick Jarman on behalf of the Neighbours and Users of Queen Elizabeth Park

1.3.1 ESSO have submitted comments to the above interested party. RBC fully supports the Neighbours and Users of Queen Elizabeth Park's Deadline 3 comments.

1.3.2 The council notes that within section 4.1.5, when responding to the groups *concerns about comments from the Applicant regarding Rushmoor Borough Council's support for 'opening up the park'* RBC's ecologist has been quoted. The council wish to clarify our position in respect of these comments.

1.3.3 RBC agrees that meetings and site visits were undertaken throughout the pre application process, with two meetings convened to discuss the SoCG within the examination process. However these meetings have not provided any of the outcomes the council would have required to ensure appropriate mitigation was provided for QEP and all other sites to be impacted.

1.3.4 Within the pre application process the mitigation for open cut was discussed with the Debbie Salmon (RBC ecologist). As stated advice was provided on appropriate mitigation if open cut techniques were to be used. This included:-

- A full phase 2 habitat Survey
 - A fully funded 10yr – 25yr management plan including provision for community work parties
 - Establishment of alternative habitat such as acidic grassland
 - Other offsetting works such as clearance of non-native species
 - The funding of a public consultation to enable the community to input any future plans for Queen Elizabeth Park
 - A new playground
 - A temporary playground whilst the works are undertaken
 - Restoration of the car park
 - Temporary and permanent footpath and access arrangements
- 1.3.5 RBC has not been able to obtain a commitment to this package from the applicant, despite 16 months of negotiation. RBC's position changed and the council promoted HDD when the full application was published and council had access to all plans and documents and could clearly assess the damage to QEP if trenching were to be undertaken. The council felt that the damage was too great should trenching be used and could not be mitigated by the above measures.
- 1.3.6 The applicant states within a meeting held on 18th October 2018 the council ecologist stated that she considers *that the woodland is in poor ecological condition and would benefit from the removal of rhododendron and secondary woodland thinning*'. Debbie Salmon was not implying that the woodland lacked ecological value, but rather that the order limits contained some birch that could be thinned and that clumps of Rhododendron were present throughout the park, thus impacting on the ecological condition of the park.
- 1.3.7 It was never advised that RBC would accept the loss of large semi mature, mature, notable or veteran trees, or impacts on their root zones or that opening up the woodland should involve the loss of trees integral to the functioning of the woodland.
- 1.3.8 As the site has been further investigated by RBC and the Neighbours and Users of Queen Elizabeth Park, it has been found that the woodland is likely to be 200 -300 year old beech woodland, with high biodiversity value. Work does need to be undertaken to thin birch and eradicate the significant rhododendron infestation throughout the park.
- 1.3.9 ESSO state that *within a letter sent to the Applicant on 16 April 2019, the Borough Biodiversity Officer stated that she would expect contributions to ensuring the woodland in the park would be better over time than its current condition. This included a request for: 'Restoration of any tree removed or establishment of alternative habitat'*. "This is true and reflects the position taken by the council before the true impact of the scheme was known. Despite requests for information ESSO did not supply any of the application documents to RBC at pre application and promised that very few trees would be removed or impacted.
- 1.3.10 ESSO state that *"At a meeting on 9 May 2019, the Borough Biodiversity Officer stated she saw 'green infrastructure and biodiversity opportunities at this site. For example, rhododendron removal or tree thinning could lead to a better woodland structure and species diversity. And reiterated that the woodland needs significant management work and ideally a 10 year management plan to bring it to a better condition'*. In addition, the Biodiversity Officer stated that *'appropriate reinstatement planting would need to be agreed*

with her. And suggested that she might favour reinstatement of footpath verges as species-rich grassland as opposed to scrub or woodland.”

- 1.3.11 RBC does indeed see GI and biodiversity opportunities for the site. Eradication of the Rhododendron and light birch sapling thinning would improve the biodiversity value of the site. RBC has commenced Rhododendron clearance. Within the pre application process, before the full impact was known, RBC requested the mitigation package detailed above, which did include acidic grassland within the order limits where trees could not be planted. However within the site visits the ESSO representative was very clear that they would provide no mitigation outside the order limits and was informed that without the full package RBC would not consider appropriate mitigation had been provided. As stated above since the application documents have been published the council have reassessed the impact on the woodland and now feel that trenching will cause too much impact on the roots zones of mature, notable and veteran trees and the ecological impact on the woodland would be too great, RBC’s position throughout the examination process is that HDD options should be explored.
- 1.3.12 ESSO claim that in *“response to these discussions, the Applicant has offered that as part of the reinstatement it would reinstate the cycle path as a more attractive user-friendly woodland trail which would consist of a range of planting to create a greater habitat mix, encouraging more biodiversity. The Applicant has also committed to undertake a programme of rhododendron clearance in the wider park to help the council in its plans to open up the park. The Applicant believes these actions are in keeping with the discussions with Rushmoor Borough Council.”* Throughout our negotiations with ESSO they have never committed to provide rhododendron clearance throughout the wider park, in fact in pre application discussions the applicant was perfectly clear that no mitigation would be provided outside the order limits. However regardless of this now the level of impact is known, RBC’s position is that HDD should be used so the impacts on QEP can be limited.
- 1.3.13 RBC will not comment further of ESSO’s comments to Nick Jarman’s Deadline 3 representations, but would refer the ExA to submissions from RBC and the Neighbours and Users of Queen Elizabeth Park which comprehensively lay out our concerns.
- 1.3.14 RBC wishes to confirm that we support and agree with the comments submitted by Nick Jarman except in the respect of an alternative route. The Council is of the view that the alternative route proposed would lead to further disruption of traffic and that HDD provides the best solution to protect the park.

1.4 Tree schedule Queen Elizabeth Park

- 1.4.1 The tree schedule submitted by the applicant is of limited value. RBC’s understanding was that the applicant was to submit a tree survey. Generally such surveys identify the trees to be felled to enable the impact from the development on the tree cover to be fully assessed by the determining authority. The schedule is merely a list of trees within the order limits, and provides no assessment of impact.

- 1.4.2 One thing that the schedule does usefully show within the figures is that the order limits are full of root zones for the adjacent trees. *Please see submissions from RBC and Nick Jarman on behalf of the Neighbours and Users of Queen Elizabeth Park, regarding further details of our concerns regarding tree loss and impact on the root zones.*
- 1.4.3 The applicant sought permission for a promised a full bat and badger survey to be submitted at Deadline 4. This information was not submitted as promised and is not included within Deadline 5 documents. RBC have commissioned our own bat survey, which we hope to submit on 21st February. We respectfully ask that the ExA grant permission for this survey to be laid before the examination. The survey identified two trees with high bat potential and one tree with medium potential within the order limits. Further investigation will be required to establish whether these trees are bat roosts.

2. ESSO's responses to the ExA questions issued at Deadline 3

- 2.1.1.**GQ2.2** - RBC notes that none of the European sites have site specific plans within the LEMP with the applicant claiming that all information is within the HRA. This increases our concerns in regards to protection of the Natura 2000 network as there is still no information on protection measures or any additional mitigation to be provided.
- 2.1.2.As protected species mitigation needs to be provided in perpetuity the temporary possession of land and 5 years aftercare would not conform to the requirements of the law in respect to protected species.
- 2.1.3.**GQ 2.4** – RBC is concerned that ESSO has confirmed that the Alignment Sheets for Narrow Working are only provisional. If not fixed narrow working could be changed within Old Ively Road and QEP and thus have a much greater impact on the important trees within these sites. ESSO should commit to narrow working areas which are fixed so they can be assessed for impact during the examination process.
- 2.1.4.In relation to badger setts all main setts should be identified within the application process. The applicant is likely to get licence permission to close any new outlier setts.
- 2.1.5.**GQ 2.10** – RBC would expect any commitment relating to the SANG to be contained within the DCO, to ensure it is legally binding.
- 2.1.6.**BIO 2.2** – RBC is very concerned to note that the only mitigation measures provided for impact appear to be *the embedded design mitigation and good practice measures detailed in Chapter16 of the Environmental Statement*. The council does not feel these measures provide appropriate mitigation and compensation for impacts to protected habitats and species.
- 2.1.7.**BIO 2.3** –RBC is concerned that EIP proposals within QEP could lead to further impact. Generally the projects promoted are relatively insignificant and in Rushmoor borough do little to enhance biodiversity.
- 2.1.8.**BIO 2.4** – Within the application there are no details of the mitigation to be provided within the EM areas and therefore the appropriateness of the mitigation cannot be assessed.

- 2.1.9. **BIO 2.5** – RBC is concerned regarding the lack of mitigation for the European sites. Our concerns would increase if the few mitigation measures proposed were delivered outside the legally binding DCO process.
- 2.1.10. **BIO 2.8** – Table 1 Habitat reinstatement on Local Wildlife Sites does not show mitigation but merely habitat restoration. As this will lead to less mature habitats, RBC would require a biodiversity offsetting calculation for any SINC within our ownership, with appropriate mitigation indicated by the calculation.
- 2.1.11. **BIO 2.9** – RBC does not agree that trees lost in the urban area should be replaced within the rural area. We do not agree that the mitigation provided for noise and vibration impacts would be sufficient within either Nash Close or Stakes Lane, where work is being undertaken in close proximity to resident’s properties.
- 2.1.12. **BIO 2.10** – RBC do not feel that the embedded design and good practice measures provide appropriate mitigation for impacts on internationally and nationally designated sites.
- 2.1.13. **BIO 2.16** – As stated in previous responses RBC is of the view that hedgerows important under the Hedgerows Act 1991 should be auger drilled.
- 2.1.14. **BIO 2.18 – BIO 2.28** - *Please see RBC’s response to NE comments, submissions in relation to the legal case and previous submissions for details of the council’s concerns.* We note that the applicant claims that 9ha of heathland will be lost to the development. RBC still is of the view that this habitat loss would cause a significant impact and should be mitigated.
- 2.1.15. For the ExA’s information pioneer heather comprises heather seedlings and is not appropriate breeding habitat for either the nightjar or the Dartford Warbler which nest in dense mature heather. There are 4 stages of heather growth, **pioneer** – seedling heather, **building heather** - semi mature heather, **mature heather** – dense heather in which the nightjar and Dartford Warbler breed and **degenerative heather** – heather reaching the end of its life. RBC’s case is not that heather will take 15 -25 years to germinate, this process is fairly rapid, but that it will take 15 – 25 years to reach the maturity required to provide breeding habitat for the ground nesting birds.
- 2.1.16. **DCO 2.2 – DCO 2.32** – *Please see Deadline 5 responses and previous submissions for details of RBC’s concerns regarding the DCO and drafted requirements to attempt to resolve these concerns.*
- 2.1.17. **QE 2.2** - *Please see the proposed HDD solution detailed above. This will ensure minimal impact on the park and no significant impact on Farnborough Hill School.*
- 2.1.18. *For further details regarding the council’s and interested parties concerns in relation to QEP please see submissions by RBC and the Neighbours and Users of Queen Elizabeth Park*
- 2.1.19. **SANG 2.1** - RBC did not quote the requirements from within the document alluded to, but the requirements placed on the council when opening SCP. NE was clear that a cycling facility was unlikely to be accepted as it would cast too much light spill and create too much noise

within the SANG. RBC wishes to represent the real requirements made by NE rather than those laid down within the mitigation strategy.

2.1.20. *For further concerns regarding the impacts on the SANG network please see RBC previous responses and legal case.*