

Southampton to London Pipeline Project

Deadline 6

Response to Action Points from Issue Specific
Hearing on Draft Development Consent Order (ISH4)
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**Southampton to London Pipeline Project
Response to Action Points from the Issue Specific Hearing on
draft Development Consent Order**



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Action No.	Action:	Applicant response to Action:
1	Redraft the last paragraph of Articles 9 and 10 and review the list of activities to ensure only those necessary are included	<p>1.1 The Applicant has made further amendments to Part 3 of the draft DCO to reflect the discussions at ISH4 regarding the Hampshire and Surrey Permit Schemes and the scope of the powers sought in articles 9 and 10 of the draft DCO, including the removal of the last two paragraphs of each article. Both Hampshire and Surrey County Councils agree with the amended drafting.</p> <p>1.2 An explanation of the changes made is set out in the document summarising changes made to the draft DCO at Deadline 6 (Document Reference 8.88).</p>
2	Review whether a Traffic Regulation Order would be more appropriate than stopping up and if it is review whether the reference to stopping up could be deleted	<p>1.1 The Applicant has considered the drafting of these articles further but remains of the view that it is appropriate to distinguish between the temporary stopping up, diversion, alteration or restriction of streets and public rights of way under article 12 (now 13), and the imposition of other traffic regulations under article 15 (now 16) of the draft DCO.</p> <p>1.2 The power in article 12 (now 13) relates to the streets and public rights of way listed in Part 1 of Schedule 5. These are principally public rights of way which will be stopped up and diverted from the existing route for a short period whilst the pipeline is laid. The Applicant therefore considers that the reference to temporary stopping up in the context of the streets and public rights of way in Part 1 of Schedule 5 is valid. The power to temporarily stop up is distinct from the power to regulate traffic under article 15 (now 16) (and is not subject to the same notice and consultation requirements as article 15 (now 16)) and so the separate treatment provided for the two powers in the draft DCO is justified. Road traffic regulation applies to vehicular traffic only (see section 2 of the Road Traffic Regulation Act 1984) and some of the temporary stopping up applies to footpaths or might apply to pedestrians on vehicular roads.</p> <p>1.3 As regards the streets and public rights of way listed in Part 2 of Schedule 5, these are principally streets in respect of which the Applicant proposes to restrict access along part of the carriageway</p>

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		<p>in order to lay the pipeline, with traffic continuing to flow down the part of the carriageway which will remain open. The power in article 12 (now 13) extends to the imposition of restrictions, so is covered by that article. It is not certain that these restrictions could be imposed under article 15 (now 16) alone, hence the Applicant has included them in article 12 (now 13) as well for the avoidance of any doubt.</p>
3	<p>Title of the table in Schedule 5 to be changed to aid clarity</p>	<p>1.1 The Applicant considers that the titles used throughout this Schedule are clear and do not need to be changed.</p> <p>1.2 Part 1 of Schedule 5 refers to streets or public rights of way which may be temporarily stopped up, altered, diverted or restricted and for which a diversion is to be provided. That is correct. Under article 12 (now 13), the Applicant is seeking a power to temporarily stop up, alter, divert or restrict the streets and public rights of way listed in Part 1 of Schedule 5 and in each case would be required to provide the diversion described in column 3 of that Part and shown on the Access & Rights of Way Plan.</p> <p>1.3 Part 2 of Schedule 5 refers to streets or public rights of way to be temporarily stopped up, altered, diverted or restricted for which no diversion is to be provided. That is also correct. The Applicant is not proposing that a diversionary route would be provided when working along the streets listed in Part 2 of Schedule 5. The Applicant has explained the position in relation to Balmoral Drive in response to further written question DCO.2.33 (Document Reference 8.37).</p>
4	<p>A325 Farnborough Road to be included in Schedule 4</p>	<p>1.1 This road has now been added to Schedule 4 in the revised draft DCO submitted at Deadline 6 (Document Reference 3.1(7)).</p>



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5	To consider how protection of veteran, notable or protected trees could be secured in Requirement 12 or another Requirement should the Secretary of State be minded to grant consent and consider it necessary to do so.	<p>1.1 The Applicant considers that the outline Landscape Ecological Management Plan (Document Reference 8.50 (2)) and the code of construction practice (Document Reference 6.4 Appendix 16.1 (4)) already include appropriate measures for the protection of veteran, notable and protected trees and these protections are secured by Requirement 12 of the draft DCO (Document Reference 3.1(7)).</p> <p>1.2 The Applicant does not consider that a further Requirement which prevented the removal of veteran, notable or protected trees, or made such removal subject to the prior approval of the relevant planning authority, or applied additional protection beyond that already secured would be appropriate. Indeed, such a Requirement would be positively misleading in respect of TPO trees, since the Applicant is seeking specific powers to undertake felling and other works to a number of TPO trees under article 42 (now 43) of the draft DCO. It is also a fairly simple process to have a tree declared to be a notable tree, which could frustrate the development if done in a coordinated fashion.</p> <p>1.3 The Applicant has committed to the retention of certain, identified trees as part of some of the Site Specific Plans (“SSPs”) submitted at Deadline 4. Compliance with those SSPs is secured by Requirement 17 of the draft DCO. For example, in relation to the SSP for Queen Elizabeth Park (Document Reference 8.57), the Applicant has confirmed that <i>“the installation will not require the removal of any mature or veteran trees”</i>. To the extent that it proved necessary to depart from that commitment, the Applicant would need to seek and obtain the approval of the relevant planning authority (in this case Rushmoor Borough Council) under Requirement 17.</p> <p>1.4 As explained at ISH4, the Applicant is concerned that any wider Requirement could jeopardise the delivery of this scheme, since it would imply that the route of the pipeline was being driven not by the Applicant, subject to the limits of deviation imposed by the draft DCO, but by relevant planning authorities. That position would be entirely inappropriate, given the purpose of the DCO is to confer development consent for the construction and maintenance of this scheme.</p>

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6	G87 to be amended to include a reference to Requirement 8	1.1The Applicant has made this amendment to the updated outline LEMP submitted at Deadline 6 (Document Reference 8.50(2)).
7	Requirement 14, 4 (c) replace traffic sensitive highway with traffic sensitive street	1.1This reference has been corrected in the revised draft DCO submitted at Deadline 6 (Document Reference 3.1(7)).
8	Requirement 14,(1) to be amended to include bank and public holidays	1.1This change has been made in the revised draft DCO submitted at Deadline 6 (Document reference 3.1(7)).
9	Provide a list of the traffic sensitive streets that would be affected by the proposed development	1.1Not applicable.
10	Requirement 14, 4(c) to be reviewed to see whether a reference to Highways England requirements needs to be included	1.1The Applicant does not consider that further changes to this Requirement are necessary. The Applicant will be drilling beneath trunk roads rather than seeking to occupy them to undertake the works. In that context, the Applicant is not aware that the Highways England road space booking system would apply to works of this nature.

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Action No.	Action:	Applicant response to Action:
11	Review all documents to ensure consistency with requirements when referring to proposed working hours	1.1 The Applicant has undertaken a consistency review and sought to ensure that all updated documents submitted at Deadline 6 are consistent with the working hours set out in Requirement 14.
12	Consider whether the Site Specific Plans could/should have a commitment bespoke working hours to reflect the local circumstances and if yes amend Requirement 14 (1) to include reference to Requirement 17	<p>1.1 The Applicant does not consider that the Site Specific Plans (“SSPs”) should include provision for bespoke working hours in those locations and the SSPs have been prepared on the basis that the core working hours defined in Requirement 14 would apply. The working hours in these locations was not a particular factor which led to the production of the SSPs, rather it was ecological sensitivity and engineering complexity that were the drivers.</p> <p>1.2 In a number of instances, for example when working within SANGs and other sensitive locations, the ExA will be aware that interested parties are in fact more concerned that the Applicant progresses the works quickly and efficiently, so that it can leave those locations and allow the land to be restored to its previous use as soon as possible.</p> <p>1.3 The Applicant has also previously explained that, given the linear and linked nature of these proposed works, any limitation imposed on its working hours in one location would have implications for the coordination of its works in another location and the scheduling and duration of the works overall. The core working hours approach adopted, which is subject to appropriate controls through the Requirements, therefore seeks to provide the necessary certainty that this scheme can be delivered in a timely and efficient manner.</p>

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Action No.	Action:	Applicant response to Action:
13	Amend 'SSSI working plans' interpretation to refer to Appendix B not Annex B as currently drafted	1.1 This reference has been corrected in the revised draft DCO submitted at Deadline 6 (Document Reference 3.1(7)).
14	Redraft Requirement 5 so that it is explicit that those elements of the Code of Construction Practice particularly those which are required for conclusions on the Special Protection Area cannot be subject to any power to amend	1.1 The Applicant has included a modified form of wording for Requirement 5 in the revised draft DCO submitted at Deadline 6 (Document Reference 3.1(7)) in response to the concerns raised by the ExA at ISH4. A summary of those changes is set out in the document summarising the changes made to the draft DCO at Deadline 6 (Document Reference 8.88).

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15	The Applicant to clarify which measures of the outline Construction and Environment Management Plan would apply to pre-commencement works and/or prior to installation works as such works are not clearly defined	1.1 Any pre-commencement works (i.e. works excluded from the definition of 'commence' in article 2) would not be covered by the measures set out in the outline Construction Environmental Management Plan ("CEMP"), although 'works prior to installation' would be subject to the CEMP if they did not fall within the exclusions set out in the definition of 'commence' in article 2.
16	Requirement 11, 5 amend to refer to 'suitably qualified and registered person or body....'	1.1 This reference has been added to Requirement 11 in the revised draft DCO submitted at Deadline 6 (Document Reference 3.1(7)).
17	Requirement 21 – provide revised wording to 'as soon as practicable' to ensure that the proposed register would be available at the earliest opportunity	1.1 The Applicant has suggested alternative wording for Requirement 21 (now 22) in the revised draft DCO submitted at Deadline 6 (Document Reference 3.1(7)).

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18	Definition of business days to be amended to exclude days on which an election or referendum is held	1.1The Applicant has amended the definition in the revised draft DCO submitted at Deadline 6 (Document Reference 3.1(7)).
19	Provide wording for a requirement that would require the removal of abandoned above ground infrastructure	1.1The Applicant has suggested a new Requirement dealing with this issue in the revised draft DCO submitted at Deadline 6 (Document Reference 3.1(7)).
20	Schedule 11 – updated to include Crown Plans	1.1The Crown Land Plans have now been added to Schedule 11 in the revised draft DCO submitted at Deadline 6 (Document Reference 3.1(7)).
21	Local Authorities to respond as to whether a definition for vegetation in relation to Requirement 8 would be needed and if it is to provide a suggested definition	1.1Not applicable.
22	Updated version of the dDCO	1.1A revised draft DCO has been provided at Deadline 6 (Document Reference 3.1(7)).