

Southampton to London Pipeline Project

Deadline 6

Draft DCO Explanation of Changes at Deadline 6
Application Document: 8.88

Planning Inspectorate Reference Number: EN070005

Revision No. 1.0

March 2020



ESSO PETROLEUM COMPANY, LIMITED

THE SOUTHAMPTON TO LONDON PIPELINE PROJECT (EN070005)

DESCRIPTION OF CHANGES TO THE DRAFT DCO AT DEADLINE 6

1. This document sets out the changes made to the Applicant's draft Development Consent Order ("**draft DCO**") between the version submitted at Deadline 5 in the examination timetable on 13 February (**Application Document 3.1(6)**) and the version being submitted at Deadline 6 in the examination timetable on 5 March 2020 (**Document Reference 3.1(7)**).
2. References to "Action Points" are references to the list of actions published by the Inspectorate following the issue specific hearing on the draft DCO held on Tuesday 25 February 2020 ("**ISH 4**").

Article 2

3. The definition of "business days" in this article has now been amended to clarify that days on which general or local elections are held are excluded from this definition. This change has been made at the request of a number of local authorities at ISH 4 and also addresses Action Point 18.
4. There is a new definition of the "permit schemes", which combines the separate definitions for the Hampshire and Surrey Permit Schemes previously used and relates to changes made to Part 3 of the draft DCO (see below).

Part 3 (street works)

5. The Applicant has engaged with the highway authorities following ISH 4 regarding the changes made to Part 3 of the draft DCO, and associated changes to articles 2 and 35, submitted at Deadline 6. The wording of Part 3 has been agreed with Hampshire and Surrey County Councils in advance of Deadline 6.
6. In summary:
 - a. the application of the permit schemes has been moved from article 35 (now 36) to Part 3 of the draft DCO, at the request of the highway authorities (the location of an article in a DCO makes no legal difference but it makes sense to group highway-related articles together);
 - b. the wording of article 9 is substantively the same as that previously set out at article 35, with minor modifications made to improve clarity; and
 - c. references to the permit schemes have been removed from articles 10 (was 9), 11 (was 10) and 15 (was 14). As the Applicant explained at ISH 4, this wording was misleading, since it may have implied that a permit granted by the highway authority was an effective substitute for the statutory power to undertake works in relation to streets under Part 3 of the draft DCO, which it is not.

7. The addition of a new article 9 has consequences for cross-referencing throughout the draft DCO. These cross-references have been updated in the draft DCO submitted at Deadline 6, however there will be a need to update references to the DCO articles in a number of other application documents, such as the Book of Reference and the Statement of Reasons. The Applicant will deal with these updates as part of the wider consistency checks to documents for Deadline 7.

Article 10 (was 9)

8. The ExA expressed some concern at ISH 4 about the powers sought in relation kerbs in article 9 of the draft DCO. Following further consideration, the Applicant has now deleted this reference. This addresses Action Point 1.
9. The Applicant considers that the remaining powers sought in articles 10 (was 9) and 11 (was 10) are relevant to this development and there may be a need to deploy each of them depending on circumstances encountered during construction. This is particularly important given the large extent of the route which would be located within streets. The Applicant would also emphasise that the exercise of the powers in articles 10(2) (was 9(2)) and 11(2) (was 10(2)) would be subject to the prior approval of the street authority

Requirement 1

10. A definition of the "Habitats Regulations Assessment" has been added as a result of changes to Requirement 5 (see below).
11. A further definition of the "HRA Commitments Schedule" has been added. This document brings together the mitigation measures in relation to European sites which are identified in the Habitats Regulations Assessment report and other application documents, such as the Code of Construction Practice.
12. The reference to "Annex B" in the definition of the SSSI working plans has been corrected to refer to "Appendix B", further to the ExA's comment at ISH 4. This also provides the response to Action Point 13.
13. A definition of the "SDNP Schedule" has also been added, which relates to changes made to Requirement 8 of the draft DCO (see below).

Requirement 5

14. This Requirement has been modified to limit the circumstances in which any changes to the Code of Construction Practice may be sought with the approval of the local planning authority. The Requirement now makes clear that any changes must not:
 - a. give rise to any materially new or materially different environmental effects to those assessed in the environmental statement; and
 - b. result in a variation to the measures set out in the HRA Commitments Schedule (as defined) which adversely affects the findings of the Habitats Regulations Assessment.

15. This wording has been added to address the concerns raised by the ExA at ISH 4 and relates to Action Point 14. The same changes have been made to Requirement 17, in relation to the Site Specific Plans.

Requirement 8

16. A new sub-paragraph (1)(b) of this Requirement has been inserted. This clarifies that, in relation to any written vegetation retention and removal plan submitted under sub-paragraph (1)(a)(i) which relates to the area of the South Downs National Park, that plan must also be in accordance with the SDNP Schedule (as defined) or with such changes to that Schedule as may be agreed by the South Downs National Park Authority.
17. The SDNP Schedule brings together all of the commitments agreed with the SDNPA in relation to the retention and removal of vegetation within the National Park. This issue was discussed at the issue specific hearing on environmental matters on Wednesday 26 February 2020 and relates to action point 39 of the list of actions published by the Inspectorate following that hearing.

Requirement 11

18. The Applicant has now amended sub-paragraph (5) of this Requirement so that the suitably qualified person referred to here must also be a suitably registered person. This change is made in response to the ExA's request at ISH 4 and addresses Action Point 16.

Requirement 14

19. The Applicant has amended Requirement 14 to clarify that works may not take place on Bank Holidays except in the event of an emergency. This also provides the response to Action Point 8. The duty to give notice of an emergency as soon as possible in sub-paragraph (2) has now been amended to a duty to give notice "as soon as reasonably practicable". The Applicant considers that this is an appropriate standard.
20. The Applicant has amended the reference to "traffic sensitive highway" in Requirement 14(4)(c) so that it now reads "traffic sensitive street". This is in response to comments made by Surrey County Council at ISH 4 and also provides the response to Action Point 7.

Requirement 18

21. This is a new Requirement inserted at the request of the South Downs National Park Authority and deals with the obligation to remove any above-ground infrastructure ("**AGI**") following the abandonment of the authorised development. The ExA also requested this wording at Action Point 19.
22. Sub-paragraph (1) confirms that any AGI must be removed to ground level following the abandonment of the authorised development. AGI includes aerial markers, cathodic protection test posts, cathodic protection rectified cabinets and field boundary markers.
23. Sub-paragraph (2) provides the definition for key terms used in sub-paragraph (1).
24. The addition of a new Requirement 18 results in a number of cross-referencing changes to the remainder of Schedule 2 and these have been made at Deadline 6.

Requirement 22 (was 21)

25. Sub-paragraph (1) of this Requirement has been modified in response to interested parties' comments so that the Applicant is under a duty to establish the electronic register of Requirements prior to the submission of any application for approval under the Requirements following the making of the Order. This change addresses Action Point 17.

Schedule 4

26. Farnborough Road has been added to the list of streets in respect of which works may be undertaken. This omission was noted by the ExA at ISH 4 and addresses Action Point 4.

Schedule 11

27. The Crown Land Plans have been added to the list of certified documents in Schedule 11 further to the ExA's request at ISH 4. This responds to Action Point 20. The SDNP Schedule and the HRA Schedule of Commitments have also been added to the list of certified documents.