



Comments on ExA DCO Consultation Version 5 (002)

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



Reference	Amendment proposed by ExA	Our comments
ARTICLES		
Part 3 Article 11(1)(g) Street Works	Delete - unnecessary	No comment from RBC on this proposed amendment.
Part 3 Article 13 Temporary stopping up, alteration, diversion or restriction of streets and public rights of way	The word “stopping up” replaced by “closed” or “closure”.	No comment from RBC on this proposed amendment.
		Please note that our views submitted at D6 regarding Articles 9, 14, 17, and 41 remain. Likewise, in relation to Articles 9(5), 10(3), 12(8), 15(7), 18(4), 21(1) and 24(2)(b).
SCHEDULES		
Schedule 2 Requirement 3 Stages of the authorised development	<i>The authorised development may not commence until a written scheme setting out all stages of the authorised development <u>including a phasing plan indicating when each stage will be</u></i>	RBC supports the proposal made by the ExA that a phasing plan would assist local authorities and communities, however maintains the view that the written scheme should be approved by the local planning or highways authority who are able to assess whether the scheme and phasing plan is in accordance with the DCO and other legal requirements, and is reasonable in the specific local context.

	<p><i>constructed</i> has been submitted to the relevant planning authority.</p>	
<p>Schedule 2 Requirement 5 Code of Construction Practice</p>	<p><i>The authorised development must be undertaken in accordance with the code of construction practice, or with such changes to that document as agreed by the relevant planning authority, provided that any such changes must be-</i></p> <p><i>(a) in accordance with the principles set out in the CoCP;</i></p> <p><i>(ab) necessary or desirable to reflect a change or update in legislation, good guidance or practice <u>or confined to a specific location along the route of development;</u></i></p> <p><i>(b) confined to a specific location along the route of the authorised development, and in either case such change must not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement and must not result in a variation</i></p>	<p>RBC supports this proposed amendment. It notes, however, that it maintains concerns about the adequacy of the mitigation measures in the Applicant's HRA.</p>

	<p>to the measures set out in the HRA Commitments Schedule which adversely affects the findings of the Habitats Regulations Assessment.</p> <p><u>(c) do not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement;</u></p> <p><u>(d) do not result in a variation to the mitigation measures set out in the HRA Commitments Schedule.</u></p>	
<p>Schedule 2 Requirement 6 Construction Environmental Management Plan</p>	<p><i>(1) No stage of the authorised development must commence until a CEMP for that stage, in accordance with the outline CEMP, has been submitted to and approved by the relevant planning authority following consultation with the Lead Local Flood Authority and/or the Environment Agency as regards any water mitigation and management measures relevant to that stage.</i></p> <p><i>(2) The construction of each stage of the authorised development must be carried</i></p>	<p>RBC supports this proposed amendment.</p>

	<p>out in accordance with the approved CEMP for that stage</p> <p><u>(3) The approved CEMP must include the mitigation measures set out in the HRA Commitments Schedule.</u></p>	
Schedule 2 Requirement 7(1) Construction traffic	<p>Save in respect of matters approved in accordance with article 13 (temporary stopping-up <u>closure</u> of streets and temporary rights of way) no stage of the authorised development must commence until a CTMP for that stage, in accordance with the outline CTMP, has been submitted to and approved by the relevant highway authority <u>planning authority</u> following consultation with the relevant planning authority <u>highway authority</u>.</p>	RBC supports the proposed amendments to this clause.
Schedule 2 Requirement 12 Landscape and Ecological Management Plan	<p>(1) Subject to sub-paragraph (3), no stage of the authorised development must commence until a LEMP, for that stage, in accordance with the outline LEMP and the SSSI working plans, has been submitted to</p>	RBC supports this proposed amendment.

	<p><i>and approved by the relevant planning authority.</i></p> <p><i>(2) The LEMP must include an implementation timetable and must be carried out as approved.</i></p> <p><i>(3) Sub-paragraph (1) only applies to those stages of the authorised development in respect of which any landscape and ecological management measures are to be implemented by the undertaker, as identified in the outline LEMP.</i></p> <p><u>(4) The approved LEMP must include the mitigation measures set out in the HRA Commitments Schedule.</u></p>	
<p>Schedule 2 Requirement 14 Construction Hours</p>	<p><i>(1) Subject to sub-paragraphs (2), (3) and (4), construction works must only take place between 0800 and 1800 on weekdays (except <u>Public and Bank Holidays</u>) and Saturdays, except in the event of an emergency.</i></p> <p><i>(2) In the event of an emergency, notification of that emergency must be given to the relevant planning and relevant highway authority as soon as</i></p>	<p>RBC are grateful for the consideration given by the ExA regarding this Requirement and support the proposed amendments.</p> <p>However, RBC remains concerned about the interpretation of “exceptional basis” and the broad power this could potentially provide the applicant to work outside the core working hours. RBC suggests that it would be helpful if exceptional basis be defined in paragraph (5).</p>

reasonably practicable.

(3) The following operations may where ~~reasonably~~ necessary continue or take place on an exceptional basis outside the working hours referred to in sub-paragraph (1) –

(a) Trenchless construction techniques which cannot be interrupted;

(b) Filing, testing, dewatering and drying;

(c) Works required to mitigate delays to the construction of the authorised development due to extreme weather conditions; and

(d) Commissioning of the pipeline works.

(4) Nothing in sub-paragraph (1) precludes – (a) The receipt of oversize deliveries to site and the undertaking of nonintrusive activities up to an hour either side of the core working hours;

(b) Start-up and shut-down activities up to an hour either side of the core working hours and undertaken in compliance with the CEMP;

	<p><i>and</i></p> <p><i>(c) Works on a traffic sensitive street where so directed by the relevant highway authority pursuant to a permit granted under the permit scheme and following consultation by the relevant highway authority with the relevant planning authority under the terms of such a scheme.</i></p> <p><i>(5) In this Requirement – (a) “emergency” means a situation, where, if the relevant action is not taken, there will be adverse health, safety, security or environmental consequences that in the reasonable opinion of the undertaker would outweigh the adverse effects to the public (whether individuals, classes or generally as the case may be) of taking action; and (b) “non-intrusive activities” means activities which would not create any discernible light, noise or vibration outside the Order Limits.</i></p>	
<p>Schedule 2 NEW REQUIREMENT Queen</p>	<p><u>(1) No development shall take place within Queen</u></p>	<p>RBC is grateful for the careful consideration given by the ExA to the issues raised by the IP’s regarding QEP and welcomes the addition of a</p>

<p>Elizabeth Country Park</p>	<p><u>Elizabeth Country Park until a Site Specific Plan for that area has been submitted to and approved by the relevant planning authority. The Site Specific Plan shall identify the determined route of the pipeline and include the following for approval: (a) construction programme including whether trenchless techniques can be used; (b) description of the works (c) plans including area plans, construction and reinstatement plans, trees to be removed and tree survey and schedule plans.</u> <u>(2) The development must be undertaken in accordance with the approved Site Specific Plan, or such changes to that plan as agreed by the relevant planning authority provided that any such changes must be necessary or desirable to reflect a change or update in legislation, guidance or good practice, and such change must not give rise</u></p>	<p>new requirement in the terms proposed.</p> <p>RBC recognises that additional information will be submitted at Deadline 7 by the applicant. However, given that there will be no opportunity for RBC to respond and that the information available from the applicant is insufficient for the authority to independently obtain a definitive professional view, RBC is strongly of the view that this amendment should be retained in the final DCO.</p>
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	<p><u>to any materially new or materially different environmental effects to those assessed in the environmental statement and must not result in a variation to the measures set out in the HRA Commitments Schedule which adversely affects the findings of the Habitats Regulations Assessment.</u></p>	
<p>Schedule 2 Requirement 17 Site Specific Plans</p>	<p><i>The authorised development must be undertaken in accordance with the Site Specific Plans for <u>St Catherine’s Road SANG, Southwood Country Park SANG, Turf Hill, Ashford Road, Ashford Town Centre, Fordbridge Park and St James’s Boys’ School</u> , or with such changes to those plans as agreed by the relevant planning authority provided that any such changes must be—</i></p> <p><i>(a) necessary or desirable to reflect a change or update in legislation, guidance or good practice;. or</i></p> <p><i>(b) confined to a specific location along the route of</i></p>	<p>RBC supports the proposed amendments to this Requirement.</p>

	<p>the authorised development. and in either case such change must not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement and must not result in a variation to the measures set out in the HRA Commitments Schedule which adversely affects the findings of the Habitats Regulations Assessment.</p>	
<p>Schedule 2 Requirement 18(1) Removal of aboveground infrastructure</p>	<p><i>The undertaker must as soon as reasonably practicable or within six months following the abandonment of the authorised development, whichever is the soonest, remove any above-ground infrastructure, including for the avoidance of doubt, any aerial markers, cathodic protection test posts, cathodic protection rectifier cabinets and field boundary markers, to ground level.</i></p>	<p>RBC supports the proposed amendments to this Requirement.</p>
<p>Schedule 2 Requirement 25(3) Further Information</p>	<p><i>If the Requirement specifies consultation with a requirement consultee is required, the relevant</i></p>	<p>RBC supports the proposed amendments to this Requirement. However, concern remains in relation to how a planning authority can realistically comply with a 21 day time limit when it has no control over</p>

	<i>authority must issue the consultation to the requirement consultee within <u>25</u> business days of receipt of the application and must notify the undertaker in writing specifying any further information requested by the requirement consultee within <u>25</u> business days of receipt of such a request and in any event within 21 days of receipt of the application.</i>	<p>when a requirement consultee responds. It might be that a requirement consultee requests further information after 21 days has passed and, in those circumstances, a planning authority would want the ability to put that request to the applicant.</p> <p>RBC therefore invites the ExA to remove the 21 day time limit [or to otherwise qualify it to state that the planning authority will use their best endeavours to do so within 21 days].</p>
Schedule 5 Part 1	<i>Removal of the words stopping up and replacement with the word closed.</i>	RBC takes no issue with the proposed amendments.
Schedule 5 Part 2	<i>Again removal of the words stopping up and replacement with the word closed. Also provision for diversion.</i>	RBC takes no issue with the proposed amendments.
Schedule 11 Document to be certified	<i>Concern raised by the lack of clarity.</i>	RBC supports these proposed amendments.
Requirement 9 Requirement 13 Requirements 29 and 30.		<p>Surface and foul drainage Protected Species Temporary use of land for carrying out and maintaining the authorised development.</p> <p>In relation to these Requirements, please note that our concerns/ comments which were submitted at D6 and earlier on in the examination (see Comments on Draft DCO) remain.</p>

