

The Planning Inspectorate
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Your Ref
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Our Ref
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By Email: imminghameasternroroterminal@planninginspectorate.gov.uk

Dear Planning Inspectorate

Immingham Eastern Ro-Ro Terminal DCO: Submission of PAD Summary Statement

We act for DFDS Seaways Plc (DFDS) who, as an Interested Party, have been assigned the reference IMRO-AFP007.

We would like to make the following submission on behalf of DFDS pursuant to Planning Inspectorate's Procedural Decision letter dated 26 May 2023.

Please find enclosed DFDS's Principal Areas of Disagreement (PAD) Summary Statement.

Yours sincerely

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IMMINGHAM EASTERN RO-RO TERMINAL DEVELOPMENT CONSENT ORDER

PRINCIPAL AREAS OF DISAGREEMENT SUMMARY STATEMENT

DFDS SEAWAYS PLC

JULY 2023

	Principle issue in question	Brief explanation of the PAD which the party will then report on in full in their subsequent Written Submissions	What, in DFDS's view, would need to change/ be amended/ included so as to address the disagreement	DFDS's view about the likelihood of the concern being resolved during the examination stage
1.	Marine Navigation: congested area with history of vessel incidents	The project is proposed in an area of high traffic where dangerous cargo is handled in bulk, in close proximity to port infrastructure in an area of strong and complex tidal flow where vessel accidents are frequent which introduces unacceptably high risks to people and the environment to make the project viable.	A different site location; fewer berths.	Low – we consider this needs a significant redesign of the project.
2.	Marine Navigation: mixing two safety assessment methodologies inappropriately	The Applicant is using a mix of two different navigational safety assessment methodologies, the Port Marine Safety Code ("PMSC") and	Produce a new Navigational Risk Assessment ("NRA") using the Port Marine Safety	Low/ Medium – the Applicant could consider this.

		<p>the Maritime Coastguard's Agency's (the "MCA") MGN 654 and Annex 1 'Methodology for assessing marine navigational safety and emergency response risks of [Offshore Renewable Energy Installations] OREIs.</p> <p>Only the first of these is applicable to this project; by mixing the two the assessment is confusing, the risks less clearly reported and appear less significant.</p>	Code ("PMSC") methodology only	
3.	Marine Navigation: inadequate wind data	<p>Rather than use available wind data from Immingham, the Applicant has used data from Humberside Airport, 15km inland, without identifying this in the application documents.</p> <p>The wind data that is provided does not include gusts or durations of wind speeds, as would be normal practice.</p> <p>The wind data provided is therefore not able to be relied on.</p>	Produce a new NRA with accurate wind data.	Low/ Medium – the Applicant could consider this.

4.	Marine Navigation: no tidal flow (speed of the tide) data provided.	<p>No tidal flow data is provided despite this being an area of notoriously strong and complex tidal flow.</p> <p>Due to the tidal flow not being aligned with much of the port infrastructure there have been multiple accidents in the area and Humber Estuary Services (as the Competent Harbour Authority (“CHA”)) has issued multiple notices warning mariners of the dangers of the tide in this area.</p> <p>Despite this the Applicant has not provided data regarding the tidal flow in the Immingham area, choosing instead to document purely the tidal levels and wave direction data, adding to DFDS’ safety concerns.</p>	Produce a new NRA with accurate tidal flow data	Low/Medium – the Applicant could consider this
5.	Marine Navigation: simulations - tide direction	<p>A more favourable tidal direction has been used in the simulations than that that which actually occurs.</p> <p>The tidal flow used in the simulations for the project is at odds with the tidal flow experienced by</p>	Re-run simulations issuing the correct tide direction	Low/Medium

		<p>DFDS' captains on a daily basis and tidal data published for the area by the UK Hydrographic Office.</p> <p>The tide has been a major contributing fact in a number of serious incidents in the Immingham Oil Terminal ("IOT") and Immingham Bellmouth areas</p>		
6.	Marine Navigation: simulations – categorisations	<p>The Applicant's simulations graded the results into four categories (Successful, Marginal, Fail and Aborted). The ability to 'abort' the simulation and re-run the same simulation several times rather than declaring it a 'fail' is poor practice and is not consistent with the reality pilots face – they cannot 'abort'. DFDS is concerned that some of the runs classed as 'abort' would have been classed as fail if they had been continued.</p>	Re-run simulations without using an abort category	Low/Medium
7.	Marine Navigation: simulations - ship models	<p>The Applicant has used a more manoeuvrable DFDS model (the 'Jinling Class' vessel) for the bulk of the simulations rather than the</p>	Re-run simulations using vessels which are more likely to be used at the facility.	Low/medium

		Stena E-Flex class vessel that will be used at this facility.		
8.	Marine Navigation: simulations – berths used	The simulations were exclusively carried out in relation to Berth 1 which is the least challenging of the three proposed berths in terms of manoeuvring so is not an adequate representative of the complexities of the full terminal.	Add simulations using the other two proposed berths	Low/medium
9.	Marine Navigation: simulations - bow thrusters	<p>The Applicant over-relies on use of bow thrusters, tugs and pilots to achieve successful simulation. Bow thrusters are designed for “fine control” and only for intermittent use in berthing or the initial stages of departure.</p> <p>However, in many of the simulation runs the bow thruster is running at full power for extended periods of 15 minutes. This would be both irresponsible given the wash effect it would have on the tug attempting to assist the vessel and potentially damaging to the thruster unit. This</p>	Re-run the simulations with a more realistic use of bow thrusters.	Low/Medium

		<p>level of bow thruster use is also indicative of a highly dangerous manoeuvre where the vessel is on the edge of losing control. Despite this the runs are categorised as 'Successful'. This is unrealistic as to how these runs will be able to be performed in actuality.</p>		
10.	Marine Navigation: towage	<p>There is no evidence that sufficient high power, compact tugs will be made available and so the towage support allowed for in the simulations was not representative.</p> <p>Furthermore, the effect of the bow thrusters and tugs in combination was not properly accounted for.</p> <p>The level of towage support required for the Applicant's development combined with the additional towage that will be required for IOT is unsustainable given the current size of the tug fleet on the Humber. Delays in tug availability are common and the towage requirements for the Applicants new terminal will only exacerbate this</p>	<p>Re-run the simulations with a more realistic use of towage support.</p>	<p>Low/Medium</p>

		situation to the detriment of other port users.		
11.	Marine Navigation: protection of the IOT Trunkway	<p>The cargo pipelines carrying oil and oil products to and from the vessels discharging run down a trunkway along the jetty stem. This makes the area particularly vulnerable to impact from a vessel with the associated pollution event that would occur following such an incident. Such an event might not only result in very significant harm to the marine and inter-tidal environment in the vicinity of the Port and downstream all the way to the North Sea but could also close the Port to all commercial traffic for a considerable period.</p> <p>The applicant recognises that the trunkway protection is key mitigation [APP-089 – page 81] but would only implement protection at the harbour master’s discretion according to the dDCO requirement 18.</p> <p>It is not clear what would trigger the harbour master to request such</p>	The Applicant to commit to proper trunkway protection for the safety of all users of the harbour and not make it conditional.	Low/ possible

		protection mitigation. This is an inappropriate approach to navigational safety and risk assessment and the protection should be provided from the outset.		
12.	Marine Navigation: protection of the IOT Trunkway	Work No. 3 is of inadequate extent to protect the trunkway	The Applicant should update the project to extend Work No. 3 to protect the full extent of the trunkway	Low/ possible
13.	Marine Navigation: stakeholders' views were not properly taken into account at hazard identification (HAZID) workshops	<p>Although relevant stakeholders had been invited to attend the HAZID workshops the skill sets and workshops were mismatched. For example, Master Mariners were asked about the construction of the terminal and not about how ships might manoeuvre around the terminal when operational.</p> <p>These workshops were not completed in line with the FSA guidance and offered little value for the hazard identification stage of the NRA.</p> <p>In the additional HAZID workshops DFDS attended the hazard</p>	Applicant to re-run HAZID workshops	Low

		consequence and severity were not accurately assessed.		
14.	The development of the project has been characterised by lack of proper engagement with stakeholders and independent scrutiny.	<p>The Applicant has relied on the Duty Holder to determine whether risks are tolerable. The Duty Holder is the ABP Harbour Board. The ABP Harbour Board is identical to the Applicant's Board of Directors. As such, the vast majority are commercial managers and have no professional marine qualifications. Also, in deciding what constitutes an acceptable risk there is a clear conflict of interest in terms of developing the project and risk assessment safety decisions.</p> <p>A designated person is also required to provide independent assurance directly to the Duty Holder.</p> <p>The board's designated person failed to attend any of the HAZID meetings and is not identified as having participated in anyway during the production of the NRA.</p>	<p>Would require company restructuring.</p> <p>Pending such restructuring, the Applicant should be asked to provide independent review and assurance from a third party not connected with the Applicant.</p>	Low

		DFDS is therefore of the opinion that there has been a lack of independent scrutiny of safety assessments.		
15.	Inadequacy of Environmental Statement – construction and operation	The effects of simultaneous construction and operation have only been assessed on a few occasions.	The Applicant should fully assess simultaneous construction and operation, or undertake not to carry both out simultaneously	Medium
16.	Inadequacy of Environmental Statement – Immingham Green Energy Terminal	<p>The effects of simultaneous construction and operation have only been assessed on a few occasions.</p> <p>No additional mitigation is proposed for the existence of the Immingham Green Energy Terminal (“IGET”) in the IERRT application, and there is only minimal mitigation proposed by the IGET project in relation to noise and vibration to the properties on Queens Road.</p> <p>The applicant should properly assess both projects being constructed and operated at the same time by rerunning the</p>	The Applicant to properly assess cumulate effects with the IGET project.	Medium

		transport and navigational assessments with the cumulative totals of vessels and vehicles from both projects if they are to be constructed at the same time and similarly for other impacts.		
17.	Environmental Statement - Impact of vessel congestion	<p>Chapter 10 of the Environmental Statement only assesses navigational safety, it does not assess any impacts such as increased access times for vessels using the existing port due to the increase in number of vessels from the construction and operation of this project.</p> <p>The navigation simulations show that the new berths will cause significant interference with the existing agreed vessel waiting areas (stemming).</p> <p>The additional movements have the potential to cause delays or remove capacity in the lock programme. The operating plan has no resilience to recover from causing disruption to scheduled services and impact</p>	<p>Applicant to carry out an assessment of vessel congestion.</p> <p>Applicant should fully engage with all stakeholders in the inner dock who may be affected as part of a new assessment.</p>	Low

		<p>schedule performance, fuel consumption and CO2 emissions.</p> <p>There has been little engagement with inner dock stakeholders.</p>		
18.	Environmental Statement: dredging	<p>The proposed dredge sites are relatively small for the quantity of material proposed and are already used for maintenance dredging.</p> <p>The sites' proximity to the port and other infrastructure means already high levels of siltation could be exacerbated and force other port users to use other deposit grounds for maintenance dredging, reducing efficiency and availability of dredge sites.</p>	Propose a different site for dredge deposit.	Medium
19.	Onshore issues: traffic	<p>Surveys of traffic flows on the network were undertaken between 22 September and 22 November 2021 when conditions on the highway and freight and logistics were still being affected by the</p>	Applicant to carry out representative and accurate traffic survey	Medium

		<p>Covid-19 pandemic so are not representative.</p> <p>The applicant has used automated traffic counts which DFDS is concerned are not accurate or representative of typical operating conditions.</p> <p>The mitigation for increased traffic outside the port is insufficient and only consists of an access lane at the East Gate which will not significantly increase capacity.</p> <p>DFDS is concerned that the assumption that only 15% of the new HGV traffic will use the West Gate is unrealistic as current practice is heavily geared towards the West Gate.</p> <p>The assessments provided by the Applicant are considered to materially under-state future congestion on the highway network. DFDS considers that the capacity of at least five junctions on the highway network would operate over capacity by 2032 and would therefore require</p>		
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		mitigation to ensure that journey times and access to the Port of Immingham are not materially worsened. Further scrutiny of the traffic flow scenarios and distribution of IERRT trips across the network is therefore required.		
20.	Onshore issues: noise	<p>There is inadequate assessment of noise in Chapter 14 of the ES [APP-050]. Among DFDS' concerns:</p> <ul style="list-style-type: none"> - The assessment of construction noise does not account for existing background noise - The assessment assumes not all construction activities will occur at the same time but there is nothing to ensure that this is the case and no mitigation proposed if it does. 	Applicant to carry out adequate noise assessment	Medium
21.	Onshore issues: air quality	There is insufficient data gathering and unjustified over-optimistic assumptions about trends. SO ₂ emissions from vehicles are not assessed at all.	Applicant to carry out adequate air quality assessment	Medium

		<p>The nearest highly sensitive nature conservation receptors are considered to be 3km away, yet the site is situated within an SAC/ SPA/ Ramsar site which is not credible.</p> <p>There is insufficient assessment and mitigation proposed for construction and operation.</p>		
22.	DCO-related issues	There are various DCO drafting issues and inconsistencies which DFDS would like the application to address.	The Applicant could correct the issues raised by DFDS in their relevant representation (likely to be further discussed at ISH1).	Medium
23.	DCO – related issues: protective provisions	DFDS would like protective provisions (such as have been provided for other port users) for where the construction and operation of the new facility would impact on its operations	DFDS look forward to discussing protective provisions for DFDS with the Applicant.	Medium
24.	Ecological concerns: inadequate assessment	Chapter 9 of the Environmental Statement does not adequately describe the situation for some species - particularly waterbirds.	A better assessment of baseline data for waterbirds.	Low/Medium

25.	Ecological concerns: effect of loss of intertidal habitat on the Black-tailed Godwit ("BTG")	<p>The effect on the BTG and other foraging waterbirds has not fully been taken into account in the ES.</p> <p>The loss of intertidal habitat may be small but the Black-tailed Godwit ("BTG") has a very localised roosting area in North Killingholme.</p> <p>The intertidal habitat delivers an important invertebrate resource for foraging waterbirds, the issue can be intensified for a species such as BTG which has a niche prey requirement and a local foraging range in relation to its roost.</p>	A better assessment of the effect of the loss of intertidal habitat and proposed mitigation and compensation as necessary.	Low/ Medium
26.	Ecological concerns: proposed construction mitigation for the BTG is insufficient	BTG are in peak numbers late summer/early autumn (i.e. before October), but works are to be restricted to October – March and restriction of works need to be more nuanced and take into account effect of different tides (spring and neap) on feeding patterns, rather than set months.	A new proposal of restriction around work which fully take into account the effect of tides on feeding patters.	Low/ Medium

27.	Ecological concerns: Operational mitigation for waterbirds	<p>Screening, which is currently proposed, will not remove issues relating to the potential loss of habitat as well as noise generation from container movement.</p> <p>Bird monitoring is noted to be undertaken but without any outcome or proposed actions stated as a result of the monitoring. The impact will be greater than minor and so compensatory provisions are expected</p>		Low/ Medium
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