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Our Ref
JZH/ADW/204604.0001
Date
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By Email only: imminghameasternroroterminal@planninginspectorate.gov.uk

Dear Sir

**Immingham Eastern Ro-Ro Terminal DCO Application
DFDS Seaways Plc - Response to the Secretary of State consultation letter of 9 May 2024**

We act for DFDS Seaways plc (DFDS) and this is a response to your letter dated 9 May 2024 inviting comments from Interested Parties on a number of matters relating to the Immingham Eastern RoRo Terminals DCO application (the 'Proposed Development').

DFDS remain strongly of the view that this application should not be granted at all, as it would either pose unacceptable navigational safety risks if allowed to go ahead in its current form, or if such risks were somehow reduced to an acceptable level, the effects of doing so on commercial operations have not been properly assessed and are likely to mean unacceptable levels of delay to vessels.

The effects of a collision between vessels or an allision between a vessel and the new facility, an existing facility or a moored vessel at Immingham could be catastrophic to people, property and the environment. One only need look at the allision between the container ship *Dali* and the Francis Scott Key Bridge that occurred at the Port of Baltimore in the US on 26 March 2024 to appreciate the consequences of such an event. Later in this letter is a description of that accident and an analysis of parallels with Immingham, necessarily limited because the effects and an investigation into the causes of the collision are both ongoing.

Impact Protection Measures

The Immingham Oil Terminal (IOT) represents a highly sensitive and increasingly significant asset of national importance given the decreasing oil processing capacity within the UK. Any interruption in use of IOT would have an almost immediate impact on the UK economy, not only within the petrochemical industry but also with wider implications for maritime traffic and trade on the Humber of which DFDS is a significant player. An allision between a vessel operating at IERRT (to be located immediately adjacent

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to IOT and behind some of the IOT berths) and the IOT, or a vessel moored there, could not only result in disruption to IOT operations but could also result in a complete closure of the Port of Immingham as a whole or even of the wider Humber estuary.

Within days of any disruption to maritime trade on the Humber the impact will be felt within the UK economy with increasingly empty supermarket shelves, lack of vital pharmaceutical products and essential manufacturing components used in our wider economy.

For these reasons DFDS consider it imperative, if the DCO were to be approved, that mitigation is in place from the outset to reduce risks to navigational safety to an acceptable level from the outset, if indeed that is even possible given the design of the IERRT and its proximity to existing facilities. Neither the Applicant's drafting of requirements 18 and 19 nor the Secretary of State's proposed amendments achieve such a reduction in risk.

While the Secretary of State's draft goes further than the Applicant's by requiring the finger pier impact protection measures to be constructed before new Berth 1 can be brought into operation, and the trunkway impact protection measures to be constructed following a determination by the Statutory Conservation and Navigation Authority (SCNA) or dock master rather than leaving it to the Applicant to decide, it does not go far enough.

In the case of the trunkway protection measures, what would cause the SCNA or dock master (which are both emanations of the same group of companies as the Applicant) to decide that the measures should be put in place? There is no obligation to monitor, no requirement for regular transparent assessment of ongoing risks and no independent scrutiny of the SCNA or dock master's proposed role in any such assessment. It is DFDS' fear that it would only be an actual incident or near miss that would do so, which are the very thing that the measures are designed to protect against.

In the case of the finger pier protection measures, there is no equivalent of Requirement 18(5) tying Work No. 3(b) to the engineering sections, drawings and plans and the general arrangement plans. As drafted, Work No. 3(b) is simply defined with reference to the Works Plans in Schedule 1, which do not show anything other than the boundary within which both parts of Work No. 3 must be constructed.

In any event, Work No. 3(b) was hastily added during the examination without the same level of scrutiny as the rest of the project and it is not clear if it will offer sufficient protection while not impeding the efficient operation of the finger pier and the IERRT. This is no mere idle concern: the Applicant has repeatedly claimed that IOT Trustees and DFDS have been exaggerating and mischaracterising their safety concerns (e.g. in paragraph 1.10 immediately before the suggested draft of what is proposed Requirement 19) [\[REP10-020\]](#) and so their proposals should be treated with greater than usual caution.

DFDS observe that the two proposed impact protection measures are currently considered independently of one another. However, an incident between a vessel and either the trunkway or the finger pier could result in catastrophic consequences, and it would be inadequate to implement one but not the other. A single incident that leads to contacting the finger pier could lead to multiple vessel breakaways which result in multiple knock-on risks to the trunkway – both directly from the IERRT vessel and indirectly from breakaway IOT vessels. It is the significance of compounded events arising from any isolated single occurrence, made more likely by the challenging location, difficult navigational environment and lack of safety margin or room for error, that should not be overlooked. The two

components of proposed impact protection therefore should not be considered independently and both are inherently required in order to minimise the potential for catastrophic consequences.

In the case of both protection measures, the draft does not deal with the case where a collision with the protection measures occurs, given that they are not sized for realistically credible vessel types making them 'single use' and would no longer be effective. DFDS consider that the IERRT should not operate until the measures have been rebuilt if they are damaged.

DFDS further consider that the size of vessel permitted to use the IERRT should be limited to the maximum for which the facility has been adequately simulated and modelled so that vessels do not increase in size over time without any consequent increase in protection, as appears to have happened at Baltimore – see below.

If an accident occurs and impact protection measures are not in place or are insufficient, then some responsibility will lie with any inadequate legal control thereof, and so it is of vital importance that any made DCO requires sufficient protection of infrastructure and other property from the outset and it is incumbent on all those involved to ensure this.

Port of Baltimore disaster

The recent vessel impact and subsequent collapse of the Francis Scott Key Bridge in Baltimore demonstrates the impact, no matter how rare, such a disaster can have upon a port.

The Port of Baltimore handles approximately one quarter of the vessel traffic seen on the Humber each year but is a significant player in the automotive, container and dry bulk markets. The collapse of the bridge tragically resulted in six workers losing their lives and effectively blocked the navigation channel and prevented all shipping movements for one month. Now, two months on from the incident, the vessel involved in the collision with the bridge has only just been freed from the bridge structure, re-floated and moved, with the aid of numerous tugs, to a nearby terminal. Maritime traffic is only 15% of pre-incident levels, and this is still having a major impact on the local and national economy and forcing customers to look elsewhere to carry out their cargo operations. The unexpected loss of power to the container ship may have been considered unlikely to occur but such incidents do happen and the consequences in Baltimore continue to have a lasting effect on the economy of the whole port, not just to those operations directly involved in the event.

It is significant that when the Francis Scott Key Bridge was constructed its designers considered that impact protection measures to guard against possible vessel contact was necessary and measures were therefore included. However whilst the Francis Scott Key Bridge did have some impact protection, this was designed when vessels were significantly smaller, lighter and was inadequate for the vessels that are currently (until the accident) trading within the port. The Applicant, whilst indicating a design vessel specification within their application, have so far proposed and simulated impact protection measures that deal with vessels that are currently operating which are smaller than the design vessel, but the DCO would allow vessels unlimited in size to use IERRT. This short-sighted approach compromises the future safety of the IOT and the wider Humber Estuary and DFDS have already requested that the vessel size be limited by requirement to the maximum for which the facility has been adequately simulated and modelled.



Impact protection is the last, best defence against such disasters. Whilst mandatory towage may have had some effect in Baltimore it offers no guarantees and tugs are as prone to mechanical and human failures as the vessel they are assisting. DFDS remain of the firm opinion that adequate passive impact protection offers the most reliable way of preventing such disasters and should therefore form an intrinsic element of any consent, given that the resulting consequences of an incident would be so regionally and nationally significant.

For these and the earlier reasons in this letter DFDS remain steadfast in their opinion that impact protection should be fit for purpose (today and in the future), mandated as part of any consent, to the satisfaction of the IOT Operators and their consultants and constructed prior to any construction work starting on the proposed development, should consent be granted.

Yours faithfully

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Angus Walker
Partner
For and on behalf of BDB Pitmans LLP

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