

IMMINGHAM EASTERN RO-RO TERMINAL DCO APPLICATION TR030007

RESPONSE TO SECRETARY OF STATE CONSULTATION LETTER DATED 9 JULY 2024

FROM DFDS SEAWAYS PLC

Introduction

1. This is a response to the consultation letter issued by the Secretary of State for Transport on 9 July 2024 on behalf of DFDS Seaways plc ('DFDS'). DFDS principally responds to point 2 in the letter, although notes that the issues raised in points 1 and 3 could have been solved much earlier and third parties should not be disadvantaged as a result of the Applicant not resolving them by this late stage.
2. By way of introduction to these comments, DFDS reiterates its main concern that this proposal is too close to existing facilities, unprecedentedly so, and would create serious and unacceptable risks to navigational safety, and this remains the case with the further controls proposed by the Secretary of State – the project is inherently unsafe in a challenging environment (about which see further below).

IOT Operators' response

3. DFDS endorses the position of the IOT Operators set out in response to the Secretary of State's first consultation that this project poses a serious threat to navigational safety and national energy security and should not be permitted. These concerns cannot now be addressed within the scope of the current application, and it should therefore be refused. DFDS finds it extraordinary that the Applicant has not engaged with IOT Operators since the close of the examination (paragraph 4.1).

The Applicant

4. As has been the case throughout the consideration of this application, the Applicant questions the motives of IOT Operators and others (paragraph 4.2), rather than seeking to address the issues raised in an objective manner.
5. At paragraph 5.9 the Applicant suggests that the construction of impact protection measures from the outset fetters the discretion of the statutory harbour authority, which is an entirely spurious argument, as any of the development authorised by the DCO would be in the same category and has nothing to do with the discretion of the harbour authority.
6. The Applicant continues to resist the construction of any impact protection from the outset by conditioning it on the opinion of the statutory harbour authority that is an emanation of the same organisation. The figment of independence between the statutory harbour authority and the commercial arm of ABP has been further undermined by the interim appointment of the Harbour Master Humber as Head of Marine Humber at ABP Humber (i.e. the Applicant), while retaining

the harbour master role – the same person now has a leading role in the two organisations that the Applicant maintains are independent.

7. DFDS consider that this issue is sufficiently important that it should either be required in the DCO without any discretion or be subject to the approval of an independent third party such as the Secretary of State.
8. The drafting of Requirement 18 proposed by the Applicant then leaves the design of the impact protection measures to itself and it merely needs to consult affected parties such as the IOT Operators and have regard to their views. The measures do have to be in accordance with the engineering and general arrangement plans but these do not contain any detail as to their specification such as what impact at what speed they must be designed to resist.
9. To address DFDS' (and IOT Operators') concerns on that front (noting that these are not DFDS' only concerns), the design and implementation of the impact protection measures would have to be substantially different and now that the examination has ended it is too late to rectify them as part of this application; it should be refused and the Applicant should have to submit a new application if it still wishes to go ahead with this project.

Immingham update

10. There has been a recent near miss at Immingham that demonstrates the challenging navigational environment in the area. On 8 July the 100m cargo ship *Samskip Skafafell* nearly allided with the Immingham Oil Terminal while a tanker was at berth 1, even though a pilot was on board and a tug was being used, resulting in the terminal being shut for a short period. Should the IERRT be built, the risks of incidents at least as severe as this one will increase significantly, and it should not need to wait until then to decide that the project should not have been consented.

Baltimore update

11. The potentially catastrophic nature of infrastructure inadequately protected from vessel allisions was brought home earlier this year in the Port of Baltimore in the United States.
12. On 26 March 2024 the container ship *Dali* lost power and allided with the Francis Scott Key Bridge in Baltimore, causing it to collapse, with six fatalities. The bridge did have, impact protection dolphins in place but these were designed for vessels in existence at the time of its construction in 1977. By way of update to DFDS' previous submission, the access channel to the port of Baltimore reopened on 10 June 2024, 11 weeks after the collision. The estimated cost of replacing the bridge, to be met by the taxpayer, is \$1.7-1.9 billion¹; the new bridge is expected to be ready by autumn 2028. Compensation for commercial losses is estimated to be between \$44m (if the shipping company successfully obtains a cap to its losses) and \$4bn², but even if the compensation is capped, the losses will still have been at the higher level.

¹ Source [REDACTED]

² Source [REDACTED]

13. The inadequacy of the impact protection measures due to increasing vessel sizes is highly relevant to the navigational safety concerns that have been raised about this application by DFDS and others. DFDS reiterates its plea that this application be refused.

BDB Pitmans for DFDS

23 July 2024