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Date: 26 August 2022

Dear Brian

Planning Act 2008 (as amended) – Section 51

Application by Immingham Eastern Ro-Ro Terminal Limited for an Order Granting Development Consent for the Immingham Eastern Ro-Ro Terminal

Advice following issue of draft documents.

In undertaking checks of the draft documents at the pre-acceptance stage, the Inspectorate has made some initial observations in relation to the draft documents. This letter comprises advice to the Applicant provided under section 51 of the PA2008 in respect of these initial observations. The Applicant should pay attention to its content and consider how appropriate action might be taken in response.

Draft Development Consent Order

Trees subject to a Tree Preservation Order

Article 32

In their correspondence, the Applicant states that a Tree Preservation Order (TPO), which is not specific to individual trees but applies to the whole woodland area (which is located within the redline boundary), has been disapplied and they will instead be producing a Woodland Management Plan which will operate in tandem with the LPA. The applicant confirms that the LPA are in agreement with this arrangement.

It is not entirely clear what the query is here – this appears to be a question of considering whether the proposed Woodland Management Plan would protect the woodland currently

covered by the TPO. As such, this is a matter which should be considered by the ExA, assuming that the application is accepted.

Off-site traffic management

Requirement 12

In their correspondence, the Applicant is preparing an agreement, a Traffic Management Plan (TMP), which includes new signage, which is being agreed with National Highways and the local highway authority. The Applicant asks whether the details of what is being proposed within the TMP should be included within the DCO. The Inspectorate agrees that the full details of the plans do not need to be included in the application, but considers that there does need to be sufficient detail included to give the Examining Authority/Secretary of State confidence that any mitigation relied on in the Environmental Statement would be adequate and would be delivered.

Consents and Agreements Position Statement

Table 1 looks as though it embraces both consents to be included in the DCO and others required and these need to be clearly separated.

Should the first paragraph in the DCO make reference to it being an 'alteration'?

Statement of Reasons

Paragraph 2.14

States that ABP have a long lease but does not specify length - lacks specificity (ie what is the remaining term).

Paragraph 2.24

States that environmental impacts are not significant, but the proposed development is partially within the SPA – it would be helpful to signpost to the evidence to support this statement.

SoR sets out the s122/123 tests, policy context and guidance etc, but falls short of setting out how the application meets the tests.

Funding Statement

Paragraph 5.1

£2.25m appears modest for CA costs and will require evidence from independent valuers.

Explanatory Memorandum

Throughput restriction - The Inspectorate believes greater clarity / specificity is required. The assumption is that it is solely 24 (3) (b), but if there are additional facilities for cargo ships then subsection (3) (d) then comes into play and the calculation of the relevant fractions needs to be carried out under subsection (5). Assuming that this application is to provide solely for a maximum of 660,000 Ro-Ro units a year, then article 22 of the DCO is the appropriate place to set out this cap along with provision for a maximum of 100 passengers a day. The reference to Restriction 14 we presume means requirement 14, and this is not a requirement matter, but is part of the operational use of the proposed development –hence article 22 is also the appropriate place for this.

Paragraph 2.16

Skeffling – This is an area of land owned by ABP, which forms part of a larger managed realignment scheme. Clarification required on what a realignment scheme is, and the role of this site in this application. It appears the application is partially within the SPA.

Paragraph 5.16

‘In accordance with section 150 of the 2008 Act, the consent of the Environment Agency, the local lead flood authority and the relevant planning authority to the inclusion of the relevant articles will be required and will be sought accordingly’.
This should be sought prior to submission.

Paragraph 6.4

‘The wording employed reflects generally the precedent provided by The Port of Tilbury (Expansion) Order 2019 and the Lake Lothing (Lowestoft) Third Crossing order 2020, albeit amended to suit the specific circumstances of this proposed development’
This states that it reflects generally and amended to suit the specific circumstances, this must be explained and justified in the ES.

Paragraph 6.7

Why is no limit (aside from the dredged berthing pocket) considered appropriate?

Paragraph 6.8

Why/how is the flexibility considered proportionate?

Paragraph 7.2

‘This provision is required if ABP is to be able to deliver the IERRT Project.’ What is meant by this?

Paragraph 9.5

Please explain why 28 days is considered appropriate.

Paragraph 10.9

Does this follow the TPO advice in Advice Note 15?

“Paragraph 22.2 - Applicants may also wish to include powers allowing them to fell, lop or cut back roots of trees subject to a Tree Preservation Order (TPO). This power can extend to trees which are otherwise protected by virtue of being situated in a conservation area. To support the ExA inclusion of this power should be accompanied by a Schedule and plan to specifically identify the affected trees.

Paragraph 22.3 - Trees subject to TPO and/ or are otherwise protected (and likely to be affected) should be specifically identified. It is not appropriate for this power to be included on a precautionary basis. Proper identification of affected trees will enable the ExA to give full consideration to the particular characteristics that gave rise to their designation and the desirability of continuing such protection.”

Works Plans

Work No. 8

This is listed under Legend on sheet 2, but incorrectly marked as Work No.7 on sheet 2;

Work No. 9 &10

These are listed under Legend, but not marked on Work Plans sheet 3; Work No.9 & No.10 are listed and marked on sheet 4 though.

Work No. 11 &12

Marked as same on Work Plans sheet 3 - the dDCO indicates that Work No.12 should be shown on sheet 6, which doesn't exist.

Work No. 13

This is listed in the dDCO, but not listed or marked on Work Plans sheet 1-5;

Land Plans

1-5

Plot No.8 & Plot No.9 are listed in the BoR, but not marked on Land Plans sheet 1-5; Plot size information missing in the BoR e.g. 2b[xx], 4[xx], 6b[xx]; SoR Appendix 1 makes reference to Plot No.6c, which doesn't appear on the Land plans nor in the BoR.;

ES Chapter 2: Proposed Development

General

The project description in Chapter 2 appears to be quite high level which is a matter of concern. It is noted that we have only seen one chapter of the ES so additional details may be available elsewhere in the document, but on the basis of the available information, we are concerned about the lack of detail and the references to estimates rather than clearly defined worst case scenarios.

It is important that the ES includes a project description which includes sufficient detail for the reader to understand what the assessments in the various aspect chapters have been based on. The ES must include a clearly defined and justified set of parameters which correspond to the maximum extent of works which would be consented under the DCO/DML and activities during operation/decommissioning. Where it is only possible to provide estimates (for instance the likely volume of dredged material) then the ES should explain how these estimates have been derived. In the absence of this information, the Inspectorate may take the view that the ES is inadequate and the DCO application may not be accepted.

General

Image 2.2 is not listed in the list of contents, it is suggested that the contents list is updated.

The size, in hectares, of the port and the redline boundary is not provided. It is suggested that this is identified and that the size of the landfall area and marine areas within the redline boundary are defined too.

It is noted that the ES chapter does not refer to the length of the operational phase or decommissioning or the activities associated with these phases. As stated above, these details should be provided in the ES.

With regards to the dDCO, it is noted that Article 7 sets out the limits of deviation. Article 7a does not specify any limits of lateral deviation and similarly article 7b(ii) does not limit any threshold for deviation downward. Article 7b(i) sets 2m of deviation virtually upwards. All limits of deviation should be set within the dDCo and the ES should assess and report the worst case of these limits.

Image 2.1

The image is pixelated when zoomed in, it is suggested that a higher resolution image is provided.

Paragraph 2.2.2

It is unclear what the text 'in one form or another' is referring to.

Paragraph 2.2.7

This paragraph states that parts of the Port are subject to the requirements of the Control of Major Accident Hazards (COMAH) Regulations (2015) and the Planning (Hazardous Substances) Act 1990, however it is unclear as to whether these areas are located within the Order Limits. It is suggested that this is confirmed within the ES chapter.

Image 2.2

The ES Chapter acknowledges that this image is illustrative, the chapter should specify what elements are fixed. A key should also be provided within the image.

Paragraph 2.3.2

Unless provided in ES Chapter 3 or on a figure in Volume 2 (which are not provided as part of the draft document package), the following should be provided:

- The materials to be used should be identified.
- The infrastructure listed in this paragraph should be clearly identified on a figure or an image.
- This paragraph offers limited detail on the dimensions of the infrastructure. For example, the length of the approach jetty is stated as being 376m, but width and heights are not provided.
- The details provided in the ES and dDCO should be consistent. For example, Work No.2 states that the dredged berthing pocket will be up to a depth of 9.0m below chart datum (CD) whereas this depth is not confirmed within the ES. The ES confirms that the floating pontoons will have a have an overall depth of approximately 9.1m below CD, but this is not specified within Works No.1.

Further details on the infrastructure on the jetty and link span bridges should be specified within the ES, for example it is suggested the following information is provided:

- The width of the roadway.
- Confirmation as to whether the footpath is separate to the roadway.
- The utilities provided.
- Details setting out what type of lighting will be used and the times and duration of lighting, for example, confirmation of whether nor not it will only be switched on when the jetty is in use.
- Descriptions of the environmental screens, including their dimensions and what they are screening.

The use of the word 'including' in the first sentence of the second bullet point in paragraph 2.3.2 suggests that not all the infrastructure elements are listed. It is suggested that all details of the project should be provided within the ES.

Paragraphs 2.3.5 and 2.3.6

These paragraphs indicate that the Applicant is not aware of any project within the locality requires the dredged material risings. It is suggested that evidence (or signposting to evidence) should be supplied within the ES demonstrating that the Applicant has researched/consulted with relevant parties ensuring that no alternative projects require the dredging infill arising from the Proposed Development.

Paragraph 2.3.10

This paragraph confirms that four existing buildings will be demolished. It is suggested that the location and dimensions of these four existing buildings are provided within the ES.

Paragraph 2.3.11

It is suggested that the peripheral areas and the additional ground works identified in this paragraph are fully described within the ES.

Paragraph 2.3.12

This paragraph indicates that that the lighting provision will be replicated to what is currently in situ. It is suggested that either the Lighting Plan or the ES Chapter clearly indicates the areas where the lighting and infrastructure differ from the existing provision.

Paragraph 2.3.14

This paragraph sets out that a new substation and frequency converter housing for shore power provision, and a new level crossing will be constructed as part of the Proposed Development. Further details on this infrastructure provision should be provided, for example, location and size of the structure, connections and voltage.

Highway junction new provisions and improvements are set out in Works No 5 to 11 in the dDCo. The description of these works within the ES is limited in paragraph 2.3.14. It is suggested that ES provides a detailed description of these works.

Paragraphs 2.3.19 to 2.3.22

The intention to provide environmental enhancements is noted. However, it is important that the ES clearly explains which measures are intended to provide mitigation or compensation and which are intended to provide enhancements. The ES should also provide a justification as to why measures are considered to be enhancements rather than mitigation or compensation.

Please pay close attention to the advice set out in this letter and act on it accordingly. This will contribute towards a more efficient examination and give any future Examining Authority comfort that the documentation is complete and accurate.

We trust you find this advice helpful, however if you have any queries on these matters, please do not hesitate to contact our office using the contact details at the head of this letter.

Yours sincerely

Sarah Norris
Case Manager

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