

## **Planning Act 2008 – Infrastructure Planning (Examination Procedure) Rules 2010**

Written Representation Regarding the Southampton to London  
Replacement Pipeline Scheme

On behalf of Spelthorne Borough Council

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## 1 Summary

- 1.1 The Council is the freeholder of land in the county of Surrey which it manages as public open space, recreational grounds and land managed in accordance with its role as the highway authority.
- 1.2 Overall a total of 4.93 hectares (12.18 acres) of land owned has been identified for compulsory acquisition by the applicant across various Classes 2-4 as described in the Book of Reference and Draft Development Consent Order.
- 1.3 The Council has set out their key concerns on a site by site basis within the main representation below.
- 1.4 The Council are extremely concerned regarding the loss of public open space for a maximum of 5 years and the displacement of children's play areas which are heavily used by the local community.
- 1.5 The Council are extremely concerned about the use of the local road network by construction traffic and the knock on effect that may have on local residents and the wider road network.
- 1.6 The Council has serious concerns about the detrimental effect the construction of the project may have on Ashford Town Centre and its retail occupiers.
- 1.7 The Council believes there were flaws in the Applicant's consultation and engagement process with affected parties.
- 1.8 The Council are extremely concerned regarding the loss of trees within Fordbridge Park and also adjacent to the Staines Road which provide a barrier against road noise for residents at Ferndale Road.
- 1.9 The Owner is extremely concerned how the Applicant will access their land for maintenance of the scheme and the wide ranging powers being sought.
- 1.10 The Owner considers the minimum notice period for temporary access is insufficient and should be extended to a minimum of 3 months.

## **2 Introduction**

- 2.1 These are the Written Representations of Spelthorne Borough Council (“the Council”) to the application for a Development Consent Order by Esso Petroleum Company Limited (“Esso”) identified as the Southampton to London Pipeline Project Development Consent Order (“the DCO”).
- 2.2 The Council is the freeholder of land in the county of Surrey which it manages as public open space, recreational grounds and land managed in accordance with its role as the highway authority.
- 2.3 This Written Representation concerns the land identified by Esso as being required for the Southampton to London Pipeline Project (“the Scheme”).
- 2.4 The matters raised in these Representations are matters concerning the acquisition of rights over the Council’s land and the impacts it will have on the use of the Council’s property which will be unduly affected by the acquisition and the subsequent rights being sought by the Applicant.

## **3 Compulsory Acquisition of Land**

- 3.1 The draft DCO identifies a large number of plots in the ownership of the Council as being required for the Scheme at various locations across their Borough.
- 3.2 Overall a total of 4.93 hectares (12.18 acres) of land owned has been identified for compulsory acquisition by the applicant across various Classes 2-4 as described below:
- 3.3 The different powers as described in the book of reference are:

Class 2 – creation of new permanent rights in relation to a 6.3 metre wide strip of land in which an underground pipeline and/or associated pipeline infrastructure may be located, over which:

- rights to enter with or without vehicles plant and equipment for all purposes associated with these rights;
- rights to install the Pipeline within the land at a depth of not less than 1200mm below the present surface of the land and afterwards to retain, inspect, maintain, repair, alter, renew, divert, replace and remove or render unusable the Pipeline or any part thereof in on or under the Order Land;
- rights to use the authorised development;
- right to inspect, survey and subsequently assess the surface of the 6.3 metre wide strip and the Pipeline from the surface or from the air;
- rights to prevent the planting of any trees and fell, trim, lop and remove any trees, bushes or other vegetation within the 6.3 metre wide strip;
- rights to prevent the construction of or remove any structures, buildings, material deposits, items or hazards that have been placed within the 6.3metre wide strip;
- rights of continuous vertical and lateral support for the pipeline and ancillary apparatus within the 6.3 metre wide strip;
- rights to place or renew markers for indicating the position of the Pipeline or any part of it;

- rights to erect and maintain stiles, gates, bridges or culverts for the facilitation of access to the Pipeline or any part of it;
- rights to construct works for the facilitation of maintenance or inspection, or protection from damage and deterioration, of the Pipeline or any part of it;
- rights to install boreholes and such other monitoring equipment as may be necessary to ensure the safe operation of the Pipeline and to assess the state and condition of the land in the vicinity of the Pipeline;
- rights to temporarily place on land on or under which the Pipeline or any part of it is situated materials, plant or apparatus required in connection with the Pipeline or any part of it.

Class 3 – creation of permanent rights in relation to the land, over which:

- rights to construct, use and maintain works including the provision of means of access and parking;
- rights to remove buildings, structures and vegetation from the land;
- rights to construct works including the provision of means of access; and
- to carry out any activities ancillary thereto;
- rights to require the landowner not to do or suffer anything to be done upon the land which may interfere with the undertaker's access, including without limitation not to erect any building or structure or allow any plant or tree to grow within the land, not to change the level of the surface, ground cover or composition of the land or do or allow to be done anything that may cause the level of the surface, ground cover or composition to be altered, not to drill, dig or break up the land.

Class 4 – temporary possession powers which authorise the temporary possession of the relevant land for the construction and (for a duration of a 5 year maintenance period where the developer so chooses) the maintenance of the authorised development on the terms set out in those provisions.

## **4 Impact on the use of the Owner's Property**

### General

- 4.1 The land required for the Project in the ownership of the Council is used for a variety of purposes including green spaces, children's play area, sports pitches used for general recreation, community centres and Dumsey Meadow SSSI adjoining the north bank of the River Thames.
- 4.2 In addition there are a number of public roads although not owned by the Council are managed by them as the local highway authority which will be directly affected by the project as access routes to work areas.
- 4.3 The Council are extremely concerned about the length of time over which the Applicant may be in possession of their land as the DCO authorises possession for

up to 5 years for construction purposes and a further period of 5 years for maintenance of the pipeline infrastructure.

- 4.4 The loss of these critical valuable green spaces for this length of time is extremely concerning and will adversely affect the local residents who rely on these areas for recreation and enjoyment.
- 4.5 The sections below outline the Council's key concerns about the impact of the project on a site by site basis.

Site Specific – Fordbridge Park

- 4.6 The Council are the owners of Fordbridge Park, a linear area of park situated close to Ashford. The park offers a wide range of facilities including play areas, a café, bowling green, public tennis courts and a multi-use open space area.
- 4.7 Fordbridge Park is an attractive public open space with open areas of grass and substantial areas of woodland, incorporating specimen and memorial trees. It is the principal area of public open space available for informal recreation in the sizeable residential neighbourhood between the Staines by-pass to the north and the River Thames to the south. The Park is accessible to maintenance vehicles from Kingston Road to the south and Woodthorpe Road to the west.
- 4.8 The park is in the Metropolitan Green Belt and is designated as a priority habitat by Natural England
- 4.9 The project requires the acquisition of a significant proportion of the park for the construction and installation of the pipeline which will be constructed using an open trench system and is also the launch/receiving pit locations for two trenchless crossings of the Ashford and Kingston Roads.
- 4.10 As mentioned above the Council have significant concerns regarding the length of time which areas of the park will be unavailable.
- 4.11 In addition the linear nature of the land acquisition will sever the park into during construction and at present the applicant has not set out how the Council will cross

their working area in order to maintain other areas of the park outside of the Applicant's working area.

- 4.12 Existing access points may be rendered unavailable during construction of the pipeline thereby compromising a wider area.
- 4.13 The Council are extremely concerned regarding the impact of noise and construction activities on users of the park.
- 4.14 The Council are extremely concerned for the users of the park, particularly children, during the construction of the project.
- 4.15 The Council are extremely concerned about the viability of the café and tennis courts during the construction of the project.
- 4.16 The Council understands that access to the park will be achieved via Celia Crescent, a narrow road with a width of 4.5 metres. The Council are concerned as to how the unregulated use of Celia Crescent by the Applicant will affect the amenity of the residents and also the control of parking on what is already a congested minor road. There is a concern as to how residents of Celia Crescent will be able to access their driveways during the period when it is being used by the project.
- 4.17 The Council wish to understand what alternatives to Celia Crescent were explored and reasons for discounting these.
- 4.18 The Applicant has not yet demonstrated how the land will be suitably reinstated back to a condition which is compatible with the management of the park.

#### Site Specific – Ashford Community Centre

- 4.19 The Council are the owners of Ashford Community Centre on Woodthorpe Road. This is a large hall which can accommodate up to 175 guests from a variety of functions including parties, weddings and other celebrations. It is used every day for a number of local interest groups including local theatre, play groups, NCT groups and social nights. It is run by a not for profit community association.
- 4.20 The Order proposes the acquisition of the area between the curtilage of the hall to the public highway for permanent rights and based on the powers being applied for this will sever the hall from the public highway and also will result in the loss of several car parking spaces.
- 4.21 The hall is a precious local resource and cannot be impacted by the Applicant's project. The Council requires a legal undertaking that access will be provided to all users of the hall at all times without interruption.
- 4.22 The loss of car parking is a major concern as the hall is heavily reliant on the availability of car parking for its users. The Council want a commitment that the

Applicant provides an equivalent area of car parking during the time when it is occupying current car parking spaces.

- 4.23 In addition the Council are extremely concerned that existing utility connections to the hall will be severed by the Applicant's works.

Site Specific - Open space north of Woodthorpe Road

- 4.24 The pipeline runs parallel to the northern boundary of Woodthorpe Road affecting a large area of open space and a well-used children's play area.
- 4.25 The Council requires a legal undertaking from the Applicant that the playground will be relocated during construction works to a nearby location or the Council are compensated fully for the costs of them replacing it. In the event that the playground conflicts with the permanent alignment of the pipeline the Council is seeking an undertaking from the Applicant that they will be paid the costs of providing and setting out a new play area.
- 4.26 It is not clear from the order documents how the Council will be able to maintain the open grassed areas which will be severed from Woodthorpe Road as a result of the construction of the pipeline.
- 4.27 The Council are extremely concerned that the Applicant has not carried out an Equalities Impact Assessment as part of its submissions.

## **5 Effect on Ashford Town Centre**

- 5.1 Chapter 9 of Council's Local Impact Report (LIR) highlighted concern over the effects of pipeline construction on commercial activity in Ashford town centre. The Council wishes to emphasize this concern.
- 5.2 In common with many comparable centres, Ashford has struggled to retain a full and varied retail offering in recent years. The shops on Woodthorpe Road and Station Approach are at the extreme north-western end of the shopping centre, whereas the main retail function has consolidated along Church Road. Retail businesses in the Station Approach area benefit from local custom and the adjacent railway station brings passing trade from commuters.
- 5.3 There is a risk that pipeline construction will worsen trading conditions. Shops might be partly hidden by construction hoarding and severed from normal pedestrian flows. On-street parking in Station Approach will temporarily be lost, as paragraph 15.3.10 of the applicant's Planning Statement (Application Document 7.1 rev.1, May 2019) explains, again reducing the potential for passing custom.
- 5.4 A further consideration is the need to maintain access to off-site car parking used by employees. An example is Blair Consular Services Limited at 28 Woodthorpe Road, which has 14 employee parking spaces. The company operates an extensive

consular documentation collection and delivery service to embassies, legal chambers, banks and other clients all across the U.K. and requires easy access.

- 5.5 Displacement of employee car parking would render it all the more difficult for shoppers to park, further reducing the attractiveness the local retail centre.

## **6 Adequacy of consultation with affected parties**

- 6.1 Fisher German, on behalf of the Applicants, issued 'Key Terms' for various agreements to be agreed into between the parties including an Option Agreement to enter into a Deed of Grant of Easement and a Construction Lease for site compounds.
- 6.2 Although it is recognised that the issuing of these terms indicated the Applicant's willingness to negotiate in parallel with the statutory process there are a number of key flaws in the terms and various documents which have prevented owners from entering into to them. For example through the key terms Esso sought restrictive rights over a much larger area than the pipeline corridor which, if granted, would have imposed these rights over the entirety of the Council's estate including the right for Esso to require any incoming purchaser to enter into a deed of covenant in respect of the Option Agreement even if that was nowhere near the pipeline itself.
- 6.3 In addition Esso were seeking the right to consent to any charge, easement, right, licence or tenancy over any part of the Council's Property.
- 6.4 There has been a lack of engagement prior to the issuing of these key terms to reflect the unique nature of the Council's land and their status as a Local Authority

## **7 Disproportionate Use of Powers**

- 7.1 The pipeline has a limited design life (as shown by the need to replace the current pipe). Therefore it is not clear why the Applicant requires permanent rights over land in perpetuity.
- 7.2 In addition the Applicant is not 'relinquishing' the rights over the old pipeline. Therefore the Council will be burdened by two easements which will sterilise more land than is necessary.
- 7.3 It should be a condition of the project that the rights over the old pipeline are released even if it remains in the ground once it has been decommissioned.
- 7.4 There are large areas of land required for construction purposes as shown in pink on the Order plans. The Council is concerned about the cumulative impact of the loss of this land in terms of public access and ecology.

## **8 Removal of Trees**

- 8.1 The project will require the removal of a number of mature trees on the Council's property under their management. Under the terms of the DCO it will not be possible



to plant replacement trees over the top of the pipeline width and therefore some of these trees will be lost forever.

- 8.2 Aside from the benefit of providing an ecology benefit the trees provide a screen for residents at Ferndale Road against the traffic noise emanating from the A308 Staines Road which is a busy thoroughfare.
- 8.3 In addition a swath of trees will be lost in Fordbridge Park during the construction of the project and the planting of replacement trees over the pipeline area will be prohibited. We are not aware that the DCO seeks to address this loss of trees in this location. Therefore there will be a net loss of trees which are a valuable resource for the reasons mentioned above.

## **9 Land Restoration**

- 9.1 The Council is extremely concerned regarding the quality of land restoration across both the pipeline line and working areas. Based on previous experience land restoration over an underground utility can be mixed in terms of quality and often the area is subject to depress and is uneven. This can cause issues to users of the land particularly where it will be used for recreation and sports.
- 9.2 Bringing soils back to use after the construction of a major infrastructure project is very difficult. Therefore the way soils are stripped and stored is very important, as is the method of de-compaction of working areas.
- 9.3 There is no mention of the control of weed species but no indication of how this will be implemented.

## **10 Access to land for maintenance purposes**

- 10.1 The Council has major concerns as to how the Applicant will access his land in the event of an emergency or routine maintenance of their infrastructure.
- 10.2 Given that the pipeline passes through areas used by the general public it is not appropriate or safe for Esso taking access to these areas without there being a pre-agreed protocol in place to manage any such access.

## **11 Temporary Notice Period**

- 11.1 In accordance with Article 29 of the Draft DCO the Applicant can exercise its temporary possession powers by serving a minimum of 14 days' notice and can

remain on the land for up to 1 year after the completion of the part of the authorised development specified in relation to the land.

- 11.2 Likewise the DCO, if granted, enables the Applicant to take possession of land subject to a minimum of 28 days' notice in the maintenance period which is 5 years after the completion of the relevant part of the project.
- 11.3 Both these notice periods, particularly the notice requiring possession of land for construction purposes is wholly inadequate and not practical. The Council would like a provision requiring Esso to providing a minimum of 3 months' notice for all works required on their property.