

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

Written Representation Regarding the Southampton to London
Replacement Pipeline Scheme

On behalf of Ministry of Justice (MOJ)

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1 Introduction

- 1.1 These are the Written Representations of the Ministry of Justice (“the MOJ”) 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”).
- 1.2 The Owner is the freeholder of HMP & YOI Bronzefield which is a modern purpose prison for women which opened in June 2004. It performs the function of a local prison, accepting prisoners direct from the courts and is run by Soxeco Justice Services.
- 1.3 This Written Representation concerns the land identified by Esso as being required for the Southampton to London Pipeline Project (“the Scheme”).
- 1.4 The matters raised in these Representations are matters concerning the acquisition of rights over the Owner’s land and the impacts it will have on the use of the Owner’s retained property which will be unduly affected by the construction of the scheme.

2 Compulsory Acquisition of Land

- 2.1 The draft DCO identifies plots in the ownership of the MOJ as being required for the Scheme at the location of HMP & YOI Bronzefield specifically affecting its access road.
- 2.2 Overall a total of 1,012 square metres of land owned by MOJ has been identified for compulsory acquisition by the applicant across various Classes 2-4 as described below:
- 2.3 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.

- 2.4 The land is classified as Crown Land pursuant to Section 135 of the Planning Act 2008 and Crown consent is required before it can be acquired pursuant to any compulsory acquisition. No such agreement has been sought by the Applicant to date.

3 Impact on the use of the Owner's Property

- 3.1 The land required for the Project forms part of the access road to the prison and is the only means of access from the public highway.
- 3.2 The access road is used by all staff, visitors, emergency services and deliveries to the prison and is fundamental to its safe and efficient operation.
- 3.3 The project seeks to acquire rights in, over and under the access road both in terms of rights to install and keep installed the pipeline (see Class 2) together with rights restricting the owner's use of the land above the pipeline infrastructure. In addition there are powers of temporary possession for the construction of the pipeline and the ability to maintain it during the maintenance period.
- 3.4 Firstly dealing with the Class 2 rights the Owner has the following concerns:
- The access road is the sole means of access to the prisons. Access must be maintained at all times and all purposes. The Owner requires a legal undertaking from the Applicant to that effect;
 - The installation of the pipeline beneath the road must be carried out using a HDD construction technique which will bore under the surface of the road without affecting its surface;
 - No construction vehicles or plant can block the road and the passage of prison vehicles along it;
 - The area above the pipeline must be protected by a 'heavy vehicle crossing'. This is normally achieved by way of a strengthening slab over the pipeline. This will ensure the integrity of the road which needs to cater for large vehicles and regular use. As a private road it is not built to the same standard as public highway;
 - Any requirements for access to the Owner's land for ongoing maintenance, repairs etc must be subject to the Owner's prior approval
 - No markers are to be placed on or near the Owner's land
 - No boreholes or other monitoring equipment is to be placed on or near the Owner's land
 - It is understood the Applicant intends to lay out pipes over the road for construction purposes. This needs to be agreed in advance with the Owner having regard to the access comments made above. If access cannot be maintained then the Applicant will not be granted permission to lay its pipes over the Owner's road
- 3.5 In respect of the Class 3 rights the Owner requires the ability to lift and shift the pipeline in perpetuity should its operational needs require it.

4 Adequacy of consultation with affected parties

- 4.1 We are not aware of any engagement with the Owner prior to the submission of the DCO.
- 4.2 It is questionable whether the applicant has fulfilled its obligations to negotiate with affected parties in accordance with Government Circular 06/04.

5 Disproportionate Use of Powers

- 5.1 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.

6 Temporary Notice Period

- 6.1 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.
- 6.2 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.
- 6.3 Both these notice periods, particularly the notice requiring possession of land for construction purposes is wholly inadequate and not practical. The Owner would like a provision requiring Esso to providing a minimum of 3 months' notice for all works required on his property.

