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Esso Petroleum Company Limited: Southampton to London Pipeline Project  
Development Consent Order application ♦ Project reference no. EN070005

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**Spelthorne Borough Council**

Response to the Examining Authority's second written  
questions and requests for information (ExQ2)

**Spelthorne Borough Council  
Knowle Green  
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# Contents

This document is Spelthorne Borough Council's response to the Examining Authority's written questions and requests for information (ExQ1) issued on Monday 13 January 2020. The Council's responses are presented in the same numerical order as original questions, as follows.

ExA question number	Topic	Page
	<b>Alternatives and general questions</b>	
ALT.2.1	Fordbridge Park	4
ALT.2.2	Narrow working width at Fordbridge Park	4
GQ.2.2	Outline Landscape and Ecology Management Plan (LEMP)	5
	<b>Biodiversity and Habitats Regulations Assessments</b>	
BIO.2.9	Monitoring and mitigation	7
BIO.2.13	Trees on the northern side of the M3 motorway	7
	<b>Draft Development Consent Order</b>	
DCO.2.1	The draft DCO at Deadline 3	7
DCO.2.13	DCO Part 6, Article 41 – felling or lopping of trees	8
DCO.2.14	DCO Schedule 2, Requirements 6, 7, 9, 12 and 15	9
DCO.2.15	DCO Schedule 2, Requirement 3	11
DCO.2.17	DCO Schedule 2, Requirement 5	12
DCO.2.24	DCO Schedule 2, Requirement 14	12
DCO.2.25	DCO Schedule 2, Requirements 15, 16 and 20	13
DCO.2.28	DCO Schedule 2, Requirement 21	13
DCO.2.31	Potential additional or re-worded Requirements	14
	<b>Landscape and visual</b>	
LV.2.1	New tree survey and protection assessment	14
LV.2.4	Tree replacement planting	15
LV.2.6	Tree protection measures	16
LV.2.7	Tree protection measures	16
LV.2.8	Planting mitigation	17
	<b>People and communities</b>	
PC.2.1	Noise mitigation and use of echo fencing	18
PC.2.6	Woodthorpe Road play area	19
	<b>Traffic and transport</b>	
TT.2.6	Celia Crescent / Woodthorpe Road	19

#### **ALT.2.1: FORDBRIDGE PARK**

##### ***Question addressed to the Applicant***

In the Examining Authority's Written Question (ExA WQ) ALT.1.4 [PD-008], the ExA requested the Applicant consider trenchless crossing for the whole of Fordbridge Park. The ExA notes the Applicant's response [REP2-038]. However, at the Issue Specific Hearing (ISH) held on Tuesday 3 December 2019 [EV-009a and EV-009b] the ExA expressed its concerns that the route of the proposed pipeline along the only tree-covered part of the park would have a considerable effect on its character.

- i). Explain whether additional surveys have been carried out and whether the narrow working width could be specifically defined.
- ii). Confirm the number of trees that would be removed in the trenched section of Fordbridge Park.
- iii). Explain the preventative measures that would be undertaken to protected trees and how they would be secured in the draft Development Consent Order (dDCO) [REP3- 006].

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#### **ALT.2.2: NARROW WORKING WIDTH AT FORDBRIDGE PARK**

##### ***Question addressed to the Applicant***

In the Applicant's response to ExA WQ LV.1.24 [REP2-045], the Applicant confirms that a narrow working width (NWW) at Fordbridge Park would be used, referenced as NW30 in the updated Code of Construction Practice (CoCP) [REP2-010]. However, the CoCP gives no commitment nor is it annotated in the General Arrangement Plans (GAPs) [REP3-005].

**Update the CoCP and GAPs to indicate the narrow working width at Fordbridge Park.**

Spelthorne Borough Council (SBC or 'the Council') is grateful that the Examining Authority (ExA) has put questions ALT.2.1 and ALT.2.2 to the Applicant. As things stand there is a wide gulf between the 'worst case' tree loss in Fordbridge Park, as depicted in figure LV.1.14.1 sheet 60 of 62 of Esso's *Response to the Examining Authority's First Written Questions – Landscape and Visual* (2 of 2, document ref. REP2-046 <sup>1</sup>) submitted at Deadline 2, and the 'provisional narrow working and pipe alignment' in Fordbridge Park, shown on sheets 134 and 135 of the Applicant's *Alignment Sheets (narrow working)* (3 of

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<sup>1</sup> [https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN070005/EN070005-000821-8.6.08%20Response%20to%20the%20ExA%E2%80%99s%20First%20Written%20Questions%20-%20Landscape%20and%20Visual%20\(LV\)\(2of2\).pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN070005/EN070005-000821-8.6.08%20Response%20to%20the%20ExA%E2%80%99s%20First%20Written%20Questions%20-%20Landscape%20and%20Visual%20(LV)(2of2).pdf)

3, application document 8.30<sup>2</sup>) submitted at Deadline 3.

With the project Environmental Statement (ES) omitting to identify and assess the likely level of tree loss along the pipeline route, the only sound basis for making judgements about the acceptability of environmental impacts is to consider the worst case that the draft DCO would allow.

Provided that a provision exists to enable the Council to agree the micro-routing of a narrow-worked pipeline across Fordbridge Park, along the lines of what is shown in sheets 134 and 135 of the Applicant's *Alignment Sheets (narrow working)* (3 of 3, application document 8.30), with the objective of minimising loss or harm to trees, construction of this pipeline section might be rendered acceptable.

At Deadline 3 Spelthorne BC, Runnymede BC and Surrey Heath BC jointly submitted a *Proposed outline of site-specific Construction Method Statements for locations of highest sensitivity on the pipeline route* (REP3-044), having earlier shared drafts with the Applicant. The paper identified four sensitive sites or 'hotspots' in Spelthorne, including Fordbridge Park. SBC met the Applicant in January 2020 to discuss a site-specific Construction Method Statement (ssCMS) for Fordbridge Park. If a ssCMS acceptable to the Council is agreed and rendered enforceable through the DCO, with the worst-case tree impacts identified in Esso's D2 landscape and visual submission (REP2-046) ruled out, then an acceptable position could be achieved.

## **GQ.2.2: OUTLINE LANDSCAPE AND ECOLOGY MANAGEMENT PLAN (LEMP)**

### ***Question addressed to the Applicant***

Chapter 10 of the Environmental Statement (ES) [APP-050], and as illustrated by the Applicant in its response to ExA WQs [REP2-045] and [REP2-046], states that as a worst case scenario, all trees and vegetation would be removed within the Order limits except where the good practice measures set out in Table 10.13 and reduced working widths identified within the Register of Environmental Actions and Commitments (REAC), which is contained within Chapter 16 of the ES [APP-056] dictates otherwise. At the ISH on Tuesday 3 December 2019 [EV-009a] and [EV-009b], the ExA stated that it considered this approach too general and vague, and it failed to acknowledge that the proposed pipeline route deviated through some sensitive locations, which the Applicant described as "hotspot" sites. Rushmoor Borough Council's position as expressed at the Hearing considers that the worst-case scenario particularly at the "hotspot" sites would be unacceptable in planning terms.

"Hotspot" sites were identified as being: Tweseldown Racecourse; Southwood Country Park and Cove Brook; Queen Elizabeth Country Park; Frith Hill; Turf Hill; Fordbridge Park and Chobham Common.

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<sup>2</sup> [https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN070005/EN070005-001013-8.30%20Alignment%20Sheets%20\(narrow%20working\)%20\(3%20of%203\).pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN070005/EN070005-001013-8.30%20Alignment%20Sheets%20(narrow%20working)%20(3%20of%203).pdf)

Accordingly, the ExA stated that the submission of a comprehensive and detailed Outline LEMP was necessary to assess the specific effects and mitigation necessary specifically for the identified “hotspot” areas. The Applicant stated that it would comply with this request and would submit such documents at D4, 30 January 2020. In anticipation of the submission of the Outline LEMP:

- i). Indicate here briefly, how the Outline LEMP will address the concerns raised by the Examining Authority (ExA) and Interested Parties (IPs).
- ii). Explain whether the Outline LEMP will undertake site specific surveys for those sites identified by the Applicant at ISH as “hotspots”, namely: Queen Elizabeth Country Park; Fordbridge Park; Turf Hill; Chobham Common and Southwood Country Park. If not, why not.
- iii). Explain whether the Outline LEMP will also undertake site specific surveys for Tweseldown Racecourse and Frith Hill, both of which are extensively tree covered and where open trenching is proposed. If not, why not.
- iv). Explain whether the Outline LEMP will cover the matters and sites specifically raised by Rushmoor Borough Council, Spelthorne Borough Council, Surrey Heath Borough Council and Runnymede Borough Council in their joint response at D3 [REP3-042] and by SDNPA [REP3-061] in respect to the Outline LEMP.

Again, SBC is grateful that ExA has put this question to Esso. In respect of the identified ‘hotspots’ please note that Ashford Road in Spelthorne should be included in the list. Under the worst case scenario allowed by the DCO as drafted, the proposed pipeline could cause significant harm to a line of mature trees on the eastern side of Ashford Road and to a tree group on the western side, all of which are protected by a Tree Preservation Order (TPO). The trunks of these trees are outside the DCO Order Limits but the root systems are likely to encroach well within the Order Limits and would be harmed by trench works for the pipeline.

The Council’s concerns are explained in chapter six of its Local Impact Report (LIR, ref. REP1-021<sup>3</sup>). The Council has requested a ssCMS for Ashford Road to address this concern (see REP3-044).

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<sup>3</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN070005/EN070005-000722-Spelthorne%20BC%20LIR%20covering%20letter.pdf>

#### **BIO.2.9: MONITORING AND MITIGATION**

##### ***Question addressed to the Applicant***

In the Local Authorities' proposed Outline LEMP [REP3-042], Spelthorne Borough Council, Runnymede Borough Council, Surrey Heath Borough Council and Rushmoor Borough Council stated that the Application contains few details regarding mitigation and compensation for significant impacts and no assurances that the land identified for mitigation has been secured and will be funded in the medium to long-term.

Confirm site specific mitigation and compensation proposals along the proposed pipeline route, to demonstrate how these measures would be secured and to indicate over what time period they would be funded.

The question is addressed to the Applicant but SBC wishes to re-emphasise the importance of arriving at an acceptable and guaranteed position in respect of specific mitigation and compensation provisions.

#### **BIO.2.13: TREES ON THE NORTHERN SIDE OF THE M3 MOTORWAY**

##### ***Question addressed to Natural England***

Confirm whether the trees on the northern side of the M3 are a priority habitat [REP3-045, para 2.1] and if it is a priority habitat are you satisfied that the use of a trenchless crossing in this location would not affect its integrity.

According to the *Magic* environmental database, which Natural England manages on behalf of Defra, the trees in question are identified as broadleaved deciduous woodland in the Priority Habitat Inventory.

In passing SBC would highlight that most of Fordbridge Park and adjacent land on the northern side of the A308 Staines by-pass is identified likewise as broadleaved deciduous woodland in the Priority Habitat Inventory.

#### **DCO.2.1: THE DRAFT DCO AT DEADLINE 3**

##### ***Question addressed to all Relevant Planning Authorities and all Interested Parties***

The Applicant provided a response at D3 [REP3-010] to all concerns raised by local authorities at D1 and D2 in respect to the then latest version of the dDCO [AS-059].

Aside from the matters questioned below, set out any outstanding concerns with the latest dDCO [REP3-006].

Subject to comments on the dDCO made elsewhere in this document and in SBC's earlier submissions to the Examining Authority, the Council supports the following amendments

in dDCO version 4 (REP3-010):

- **dDCO Part 3: Streets** – the proposed increase in the notification period for street works and temporary restrictions from 28 to 42 days in Articles 10(3), 12(8), 14(3) and 15(7) of the dDCO.
- **dDCO Part 4: Supplemental powers** – the addition of Article 19(6) concerning the prompt restoration of land following site surveys or investigations.
- **dDCO Schedule 2, Part 1, Requirement 8: Hedgerows and trees** – the proposed amendments to paragraph 3 concerning the aftercare of reinstated vegetation.
- **dDCO Schedule 2, Part 1, Requirement 18: Amendments to approved details** – the increase from 28 to 42 days in the period after which deemed consent would apply for amendments to approved details.
- **dDCO Schedule 2, Part 2, Requirement 24: Fees** – the increase from 28 to 42 days in the period after which application fees are repayable.
- **dDCO Schedule 11: Documents to be certified** - the addition of further documents to the list.

**DCO2.13: DRAFT DCO PART 6, ARTICLE 41 – FELLING OR LOPPING OF TREES**  
***Question addressed to all Relevant Planning Authorities***

The ExA notes the alterations to this Article made at D3 [REP3-006] and Rushmoor Borough Council [REP3-041], Spelthorne Borough Council [REP3-045], and the SDNPA's [REP3-061] continued objection to this Article. The ExA will defer further specific questioning of this Article until after it has examined the additional documents to be submitted at D4 in respect to the Outline LEMP, Outline CEMP and CoCP to consider whether the powers sought in this Article, taken alongside the relevant Requirements in Schedule 2, are appropriate. However, in the interim:

- i). Comment on the changes to the wording of Article 41(1) of the dDCO [REP3-006] in relation to the power to remove trees “near any part of the authorised development” which has been replaced with “within or overhanging land within the Order limits, or may cut back the roots of a tree or shrub which extends into the Order land...”.
- ii). Explain with reasons whether the Article prevents any trees (other than branches or roots that encroach within the Order limits) being removed outside of the Order limits.
- iii). Set out what additional changes, if any, would be required in addition to the Outline



**CEMP to be submitted at D4 to overcome the concerns raised at D3 that neither this Article, Article 42 or Requirement 6 safeguards trees against unnecessary losses.**

For reasons explained in response to question GQ.2.2 (above) and in paragraph 1.21 of the Council's written summary of oral representations in its Deadline 3 response (REP3-045), SBC does not consider that Article 41 provides adequate safeguards for trees, whether in its original or amended form. Under Article 41 as amended, the proposed pipeline could still cause significant harm to trees at Ashford Road and Fordbridge Park, for example, which are just beyond the DCO Order Limits. The trunks of these trees are outside the DCO Order Limits but the root systems are likely to encroach well within the Order Limits and would be harmed by trench works for the pipeline. This harm might cause the loss of valued trees outside of the DCO Order Limits.

SBC will review Esso's forthcoming outline LEMP with interest. In the meantime the Council considers that the safeguards proposed in paragraphs 4.13-4.14 of its LIR (REP1-021) in common with Runnymede and Surrey Heath Borough Councils represent a superior approach. A Tree Survey and Protection Strategy should be requested from the Applicant during the current DCO examination and a new DCO Requirement on tree protection is proposed. Amongst other things the proposed Requirement requires the submission to and approval by relevant planning authorities of Local Tree Protection Plans. These plans would guarantee the site-specific consideration of trees and tree protection that is currently absent from the applicant's ES and which would not be remedied by DCO Article 41 as amended. Site specific consideration, agreed at the local level, is essential if tree loss and harm is to be minimised.

**DCO.2.14: DRAFT DCO SCHEDULE 2 – REQUIREMENTS 6, 7, 9, 12 AND 15**

***Question addressed to the Applicant and all Relevant Planning Authorities***

The ExA is concerned that the Requirements as worded now only requires matters to be "based upon" its outline versions as opposed to be "substantially in accordance" or "in accordance". No definition exists in the dDCO [REP3-006], and the ExA is not aware of any previous legal definition or meaning in any other DCOs of the terminology "based upon".

***For the Applicant:***

- i). Explain the difference in terminology and its implications.
- ii). Justify the looser term. Or
- iii). Alternatively, restore all relevant Requirement to "in accordance".

***For Relevant Planning Authorities:***

- iv). Comment on the above.

SBC shares ExA's concern about the looseness of the 'based upon' provisions in the identified DCO Requirements and supports their replacement with 'in accordance' or at least 'substantially in accordance'.

In respect of draft **Requirement 6: Construction Environmental Management Plan** specifically, a CEMP 'based upon' an outline plan could represent a substantial watering down of safeguarding provisions that were taken as read during the examination and determination of the DCO application. That would be unacceptable.

From a technical drafting perspective the Council appreciates why, with a comprehensive outline CEMP in place, a detailed list of management plans would not need to be included in Requirement 6. However, given the Applicant's apparent reluctance to commit to detail and the fact that implementation of the DCO might substantially be left to contractors, a full list of the management plans attaching to the CEMP should remain in Requirement 6, and should include a '*construction lighting strategy*'.

These concerns over drafting apply equally to draft **Requirement 7: Construction Traffic**. As proposed in paras. 4.29-4.34 of the Council's LIR (REP1-021) and in SBC's response to FWQ TT.1.2 (see REP2-088 pp 17 and 18), the following provisions should be added to Requirement 7:

*The CTMP for each stage will provide details of the following:*

- a) Development phasing*
- b) Vehicle types*
- c) Abnormal indivisible load movements*
- d) Recording of construction vehicle movements*
- e) Local highway issues and constraints*
- f) Highway condition survey*
- g) Access and route strategy*
- h) Signage strategy*
- i) Core working hours*
- j) Use of banksmen*
- k) Management of public rights of way*
- l) Wheel-washing and maintenance of a clean highway*
- m) Travel plan for construction workers*
- n) Temporary traffic management procedures*
- o) Temporary repositioning of bus stops*
- p) Communications and community engagement*
- q) Liaison with emergency services*
- r) Monitoring arrangements*
- s) Compliance and enforcement procedures*

Subject to the replacement of the term 'based upon' with 'in accordance with', SBC

supports the inclusion of new **Requirement 15: Community engagement plan**.

**DCO.2.15: DRAFT DCO SCHEDULE 2 – REQUIREMENT 3**

***Question addressed to the Applicant and all Relevant Planning Authorities***

The ExA has expressed concerns regarding the practicalities of this Requirement, specifically how the Applicant intends to deal with each authority and ensure a consistent approach. In the D3 response [REP3-010], the Applicant states that the current drafting of this Requirement reflects that there has been limited engagement with contractors and as such the detail as to how the project would be built out has not been worked up.

***For the Applicant:***

- i). Explain whether further details will be made available to the Examination before it closes.
- ii). Amend the Requirement to ensure that development cannot commence until the scheme setting out the stages has been submitted to all relevant planning authorities.

***For Relevant Planning Authorities:***

- iii). Given the concerns raised at the Issue Specific Hearing on the dDCO held on Wednesday 27 November 2019 [EV-006b] and by Spelthorne Borough Council in its submission at D3 [REP3-045] regarding the wording of this Requirement, provide an alternative form of wording which would be acceptable.

***N.B. – The ExA would hope that a joint response could be provided on an agreed approach.***

SBC proposes the following redrafting of Requirement 3: Stages of authorised development. This wording has been agreed with Runnymede Borough Council.

*The authorised development ~~may~~ must not commence until a written scheme setting out all stages of the authorised development in the relevant to it planning authority or highway authority area has been submitted to and approved in writing by the relevant planning and highways authorities.*

**DCO.2.17: DRAFT DCO SCHEDULE 2 – REQUIREMENT 5**

***Question addressed to all Relevant Planning Authorities***

In its D3 response [REP3-010] the Applicant has indicated that it does not intend to amend Requirement 5 of the dDCO but has instead inserted a new requirement to maintain an electronic register of requirements. This is set out in new Requirement 20.

- i). Explain whether this resolves the concerns raised by a number of relevant planning authorities at the ISH on the dDCO held on Wednesday 27 November 2019 [EV-006b].
- ii). If not, why not and provide alternative wording that could be used.

***N.B. – The ExA would hope that a joint response could be provided on an agreed approach***

SBC is content with new Requirement 20: *Register of Requirements*, subject to it being clear that the register would be made available and maintained for the requisite period on-line. A register ‘in electronic form’ could include a document available only by e-mail upon application to the developer.

**DCO.2.24: DRAFT DCO SCHEDULE 2 – REQUIREMENT 14**

***Question addressed to the Applicant and all Relevant Planning Authorities***

***For the Relevant Planning Authorities:***

The wording of this Requirement has been amended in the dDCO [REP3-006] in light of the discussions at the ISH on the dDCO held on Wednesday 27 November 2019 [EV006b]. Respond as to the adequacy of this wording.

***For the Applicant:***

Whilst the proposed hours of work have been reduced to 08:00-18:00, it is noted that start up and shut down activities for an hour either side of these times is still proposed. Confirm whether:

- i). Deliveries would occur during the start-up/shut-down activities.
- ii). What mechanisms are proposed to ensure that these activities are low noise generating activities and that plant and machinery are not operated in these periods as stated in your response.
- iii). Explain what is meant by “reasonably necessary on an exceptional basis”.

As explained in paragraph 1.15 of SBC’s written summary of oral submissions submitted at Deadline 3 (REP3-045), the Council remains of the opinion that the local agreement of

construction hours with the relevant planning and highways authorities is a superior approach to that proposed in amended draft Requirement 14.

The pipeline passes through a wide range of environments, including remote farmland in which extended working hours might be acceptable, and more sensitive residential areas and school sites in which working hours will need to be restricted. The 'one size fits all' approach proposed by the Applicant would constrain works unnecessarily in some areas whilst failing to respond to local sensitivities in others.

**DCO.2.25: DRAFT DCO SCHEDULE 2 – REQUIREMENTS 15, 16 AND 20**

***Question addressed to all Relevant Planning Authorities***

**Comment on the adequacy of the new Requirements 15, 16 and 20 in the dDCO [REP3-006].**

Subject to the replacement of the term 'based upon' with 'in accordance with', SBC supports the inclusion of new ***Requirement 15: Community engagement plan***.

The Council supports the inclusion of new ***Requirement 16: Commercial operation of the existing fuel pipeline*** in the DCO.

As noted in response to question DCO.2.17 above, SBC is content with new ***Requirement 20: Register of Requirements***, subject to it being clear that the register would be made available and maintained for the requisite period on-line.

**DCO.2.28: DRAFT DCO SCHEDULE 2 – REQUIREMENT 21**

***Question addressed to all Relevant Planning Authorities***

The dDCO submitted at D2 [REP2-003] (then as Requirement 20) increased the number of business days for the submission of a request for further information from two to five days (20(2)). However, this is still below the number suggested by a number of Local Authorities in their LIRs for example Hampshire County Council [REP1-013] suggested 14 days and Runnymede [REP1-017] and Spelthorne [REP1-021] Borough Councils suggested 15 days was necessary.

**Explain further why a longer time frame would be necessary.**

The longer time period requested reflects the following pragmatic considerations:

- the paucity of local authority planning resources and the need to accommodate responses to the pipeline project with other time-sensitive demands such as planning committee cycles and planning appeals;

- the size and complexity of some DCO Requirement submissions and the need to allow reasonable time for those submissions to be read, understood and then shared for comment as necessary with other council departments such as environmental health, legal, parks and leisure, tree protection and car parking.

The longer time period requested would have no material effect on the delivery of the proposed pipeline.

#### **DCO.2.31: POTENTIAL ADDITIONAL OR REWORDED REQUIREMENTS**

##### ***Question addressed to all Relevant Planning Authorities***

In the event that the Outline LEMP and Outline CTMP, alongside the substantially updated Outline CEMP and CoCP to be submitted at D4 are not deemed sufficient particularly in dealing with the “hotspot” areas, the ExA will need to consider whether a) the Order is capable of being made with existing Requirements in place or b) whether additional Requirements or amended wording to existing Requirements would be necessary.

When the D4 documents have been assessed, advise whether the SoS is capable of making the Order with the dDCO unamended, or whether additional and/or amended wording would be necessary. Provide this advice by D5, Thursday 13 February 2020.

SBC will respond at Deadline 5 as required. In advance of this the Council would highlight that were Esso to provide acceptable site-specific Construction Method Statements for the four identified ‘hotspot’ locations in Spelthorne – Ashford Road, Fordbridge Park, Ashford town centre and Clarendon primary school, many of the Council outstanding concerns about the local environmental and amenity effects of the proposed pipeline would be addressed.

#### **LV.2.1: NEW TREE SURVEY AND PROTECTION ASSESSMENT**

##### ***Question addressed to the Applicant and all Relevant Planning Authorities***

In their respective LIRs, Spelthorne Borough Council [REP1-021], Runnymede Borough Council [REP1-017] and Surrey Heath Borough Council [REP1-023] requested an additional Requirement be inserted into the dDCO which requires a Tree Survey and Protection Strategy to be submitted to and approved by the relevant planning authority. This is because the Local Authorities did not consider the current REAC, which forms part of the Chapter 16 of the ES [APP-056] and CoCP [REP2-010] are sufficient to deal with the tree loss and mitigation, particularly at identified “hotspot” areas.

The Applicant responded at D3 [REP3-010] stating matters would form part of the Arboricultural Management Plan secured by Requirement 6 of the dDCO, an outline of which will be included in the Outline CEMP to be submitted at D4. The Local Authorities

in question in their D3 responses [REP3-044] appear to consider the matter remains unresolved.

**Update the ExA as to the progress with and the content contained in the Arboricultural Management Plan, and whether this would provide the sufficient tree survey and protection assessment as sought by the Local Authorities.**

As explained in response to question DCO 2.13 (above), SBC's preference is for the additional tree protection Requirement proposed in paragraphs 4.13-4.14 of the Council's LIR (REP1-021) in common with Runnymede and Surrey Heath Borough Councils, unless Esso can demonstrate persuasively that equivalent tree protection safeguards responsive to local circumstances can be guaranteed by other means in the DCO.

#### **LV.2.4: NEW TREE REPLACEMENT PLANTING**

*Question addressed to the Applicant and all Relevant Planning Authorities*

In ExA WQ LV.1.10 [PD-008], the ExA requested a justification for the Applicant's position that no replacement or compensatory planting is required for Tree Preservation Order (TPO) lost trees where a moderate effect is identified at Year 15. The Applicant responded [REP2-045] stating that proposed tree planting and hedgerow infilling shown on Figure 7.56 of Chapter 7 of the ES [APP-047] would partly offset for loss of TPO trees but that this replacement planting would be mainly in rural areas where there is more room to accommodate planting. The ExA is unconvinced that the response resolves the concern.

- i). Explain whether off-site planting could mitigate loss of TPOs particularly in non-rural areas.
- ii). Explain how this could be secured given that such sites would be outside of the Order Limits.

A deficiency of the DCO application is that it makes only general provision for compensatory planting without demonstrating that these measures are practicable in specific locations where mitigation is warranted.

In urban areas where it might not be possible to provide compensatory planting on the spot, a possible solution might be for the Applicant to agree section 106 obligations with the relevant planning authority to enable the funding of compensatory planting within – say – 1 km of the site where trees are lost. In Ashford, for example, this would enable the Council to secure planting in prominent roadside locations and in public open spaces, enhancing local amenity.

#### **LV.2.6: NEW TREE REPLACEMENT PLANTING**

##### ***Question addressed to all Relevant Planning Authorities***

In ExA WQ LV.1.12 [PD-008], the ExA sought confirmation that provision G68 in the REAC, which is contained within Chapter 16 of the ES [APP-056] and relates to the supervision of notable trees by an Environmental Clerk of Works, would also extend to TPO trees, veteran trees and ancient trees.

The Applicant's response [REP2-045] stated that no ancient trees were identified from the inventory or during site surveys, but that G86 of the REAC has been amended to include reference to TPO and veteran trees. The Applicant also states that commitment G3 in the REAC refers to 'appropriate specialists' and this could include an arboriculturalist if required.

**Confirm the appropriateness of commitment G3 in the REAC with regards to the provision of specialist aboricultural advice.**

As explained in chapter seven of the Council's LIR (REP1-021) SBC remains concerned that Esso's application has focused on protected trees and woodland and overlooked the significant amenity value of undesignated trees, such as those in Fordbridge Park in Ashford. This is partly why the Council's preference is for a new DCO Requirement that provides for the submission of a Local Tree Protection Plan, prepared by a qualified member of the Arboricultural Association and applicable to all affected trees regardless of their legal status (see the draft Requirement on pp19-20 of the Spelthorne LIR).

#### **LV.2.7: TREE PROTECTION MEASURES**

##### ***Question addressed to all Relevant Planning Authorities***

In ExA WQ LV.1.13 [PD-008], the ExA sought an explanation as to why the aboricultural assessment accompanying the ES, which was undertaken in accordance with British Standard 5837:2012, relied on the protective principles for trees used by the National Joint Utilities Group Guidelines (NJUG) for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees ('NJUG Volume 4' (2007)).

The Applicant responded [REP2-045] that British Standard 5837:2012 is not considered to be the most appropriate guidance for utilities works. The ExA is not persuaded by this response, considering that British Standard 5837:2012 is more rigorous in terms of tree protection fencing.

**Confirm whether it is accepted that the Applicant's proposed reference to NJUG during the construction period and if not, why not.**

BS5837:2012 *Trees in relation to design, demolition and construction* is the appropriate standard to apply in the current context. The standard was prepared expressly to assist



developers, designers, contractors and statutory undertakers to implement planning permissions that affect trees. It sets out a logical sequence of survey, design and implementation activities and would provide an appropriate framework for the Local Tree Protection Plans that would be required by the new tree protection DCO Requirement promoted by Spelthorne, Runnymede and Surrey Heath Borough Councils in their LIRs (see the draft Requirement on pp19-20 of the Spelthorne LIR – REP1-021).

In contrast the *National Joint Utilities Group Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees* (NJUG Volume 4, 2007) is as much concerned with the protection of apparatus from damage by trees as with the protection of the trees themselves. The tree protection guidance it offers is less detailed. It offers a series of helpful tips to contractors as opposed to an overall methodology comparable to that found in BS5837:2012.

#### **LV.2.8: PLANTING MITIGATION**

##### ***Question addressed to the Applicant and all Relevant Planning Authorities***

The ExA notes the Applicant's response to ExA WQ LV.1.14 [REP2-045 and REP2-046] and the provision of a worst-case scenario set of drawings indicating the approximate lengths of hedgerows and the approximate areas of woodlands to be potentially removed. However, commitment G87 of the REAC, which is contained within Chapter 16 of the ES [APP-056] and the CoCP [REP2-010] only requires the Applicant to implement these measures "where practicable".

##### ***For the Relevant Planning Authorities:***

- i). Confirm the appropriateness of the Applicant's approach to commitment G87.

##### ***For the Applicant:***

- ii). Explain the process for vegetation clearance, retention, protection and replanting/reinstatement drawings in the event that it was not practical to implement commitment G87.
- iii). How this would be advised and agreed with relevant planning authorities.
- iv). How would changes to the submitted drawings be made and recorded.

The question is consistent with SBC's concern over the current lack of certainty over the actual level of tree and vegetation loss that the DCO as drafted might allow. In the round and notably at commitment G87 the REAC is only able to offer the most broad-brush commitments. The REAC does not offer a clear picture of the detailed environmental protection and mitigation that would be afforded at a site-specific level.

This is why Spelthorne BC and neighbouring local authorities in Surrey are promoting measures including a new DCO Requirement for tree protection and site-specific

Construction Method Statements for sensitive 'hotspots', as described in response to relevant questions above. Such measures would complement DCO Requirement 8: *Hedgerows and trees* and Requirement 12: *Landscape and Ecological Management Plan* through which REAC commitment G87 would be secured.

Environmental impacts need to be understood in appropriate detail or otherwise constrained to acceptable worst case levels by enforceable parameters before any consent can be forthcoming.

#### **PC.2.1: NOISE MITIGATION AND THE USE OF ECHO FENCING**

***Question addressed to the Applicant and all Relevant Planning Authorities***

***For the Applicant:***

In response to Action Point 19 [REP3-015] that arose from the ISH on Wednesday 4 December 2019 [EV-010a and EV-010b], explain why the following locations were not included in the list:

- Ashford: Ferndale Road;
- Lightwater: Briar Avenue; and
- Farnborough: Woodland Crescent, Woodstocks, the Chase, Queen Victoria Court, Cabrol Road and Stakes Lane.

***For Relevant Planning Authorities:***

**Review the locations where the Applicant has suggested the use of Echo fencing as noise mitigation and provide with explanation any other locations where such mitigation would be needed.**

The Council would be grateful if Esso could review the need for Echo noise barriers at the following additional locations.

- Along the section of the southern boundary of Fordbridge Park where residential properties on Celia Crescent side onto the park.
- To the rear of residential properties on Ashford Close, off Woodthorpe Road in Ashford, where homes back onto proposed construction compound CO5Q.
- To the rear of residential properties on Village Way in Ashford. These properties back onto the Clarendon primary school where two trenchless pipeline sections will meet. Completion of works within the narrow confines of school summer holidays is likely to require intense construction and site restoration activity at this location. Residents are more likely to have their windows open during the summer, with enhanced potential for noise disruption.

- To the rear of properties towards the northern end of Edward Way in north Ashford, where works are required for the trenchless crossing of the A30 London Road.

#### **PC.2.6: WOODTHORPE ROAD PLAY AREA**

##### ***Question addressed to the Applicant and Spelthorne Borough Council***

**Provide an update on the progress over discussions regarding the relocation and reinstatement of the play area.**

Discussions are underway between SBC and the applicant on the re-provision of the Woodthorpe Road play area. The Council awaits confirmation from the Applicant on whether the detailed pipeline route will necessitate the play area being relocated on a temporary or permanent basis. The specifications of the replacement play area have yet to be agreed.

The parties have yet to agree the contractual means by which re-provision of the play area will be secured. A s.106 agreement under the Town and Country Planning Act 1990 is the Council's preferred option. It might also be appropriate for the play area re-provision to be set out in the land agreements.

#### **TT.2.6: CELIA CRESCENT / WOODTHORPE ROAD**

##### ***Question addressed to the Applicant and Spelthorne Borough Council***

**Provide an update on the discussions/agreement to deleting the proposed construction access from Celia Crescent to Woodthorpe Road [REP3-045, para 1.35].**

Discussions have taken place between SBC and the Applicant concerning the provision of a construction access from Woodthorpe Road (south of the A308 Staines by-pass) as an alternative to the Celia Crescent access. The Applicant's agent is due to provide a plan and outline specification for the alternative access.

If an acceptable solution is identified having regard to considerations including highway safety, continued access for park users, the potential loss of vegetation and the reinstatement of park railings, then the parties will enter into a stand-alone agreement. This agreement would regulate this alternative access during pipeline construction and site reinstatement. This proposal is likely to require highways approval and possibly planning permission, both of which the Council expects the Applicant to obtain at its own expense. This would enable the Celia Crescent access to be deleted from the DCO.