

PLANNING ACT 2008

INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

APPLICATION FOR THE YORK POTASH HARBOUR FACILITIES DEVELOPMENT CONSENT ORDER (Reference TR30002)

DEADLINE 6

SUBMITTED ON BEHALF OF
INEOS UK SNS LIMITED
(Unique Reference Number 10031322)

COMMENTS ON THE EXAMINING AUTHORITY'S DRAFT DEVELOPMENT CONSENT ORDER

1. INTRODUCTION

- 1.1 These are the comments on the Examining Authority's Draft Development Consent Order submitted by INEOS UK SNS Limited (**INEOS**). INEOS's submission is made on behalf of itself and its joint venture partner, Sterling Resources (UK) Plc.
- 1.2 The form of this document is identical to the submissions of SABIC UK Petrochemicals Limited (**SABIC**) and Huntsman Polyurethanes (UK) Limited (**Huntsman**).
- 1.3 With effect from 30 November 2015 DEA UK SNS Limited changed its name to INEOS UK SNS Limited. INEOS is the same legal company that previously constituted DEA. All previous objections representations and correspondence from or referring to DEA should be read by the Examining Authority in examining the above Order as being from, or referring to, INEOS.
- 1.4 In this document SABIC, Huntsman and INEOS are together referred to as the **Objectors**.
- 1.5 The purpose of this document is to set out the Objectors' comments on the Examining Authority's Draft Development Consent Order (the **Draft Order**).
- 1.6 The Objectors are also making a parallel submission at Deadline 6 containing their specific Submissions in relation to the Schedule 9 Protective Provisions (the **Protective Provisions**). That submission does not address the Objectors' comments on the Examining Authority's Draft Development Consent Order.

2. COMMENTS ON THE DRAFT ORDER

DCO	<p>Article 2</p> <p>"pipeline corridor" means the corridor shown coloured yellow on the pipeline corridor plans;</p> <p>"pipeline corridor plans" means the plans certified by the Secretary of State as the pipeline corridor plans for the purposes of this Order (Documents 3.15A– C)</p>
	<p>The definition of "pipeline corridor" was originally contained in the Protective Provisions,</p>

but has been moved to the main body of the Order. Nevertheless the definition remains central to the Protective Provisions, which fundamentally protects “pipelines” which are “apparatus located in the pipeline corridor”.

The “pipeline corridor” is defined by reference to the land shown shaded yellow on the “pipeline corridor plan” (again the definition has been removed to Article 2 of the draft DCO). The Objectors accept the principle that the pipeline corridor can be defined by a plan.

The Applicant has submitted a draft plan to the Planning Inspectorate (Document 3.15C), but this does not appear to cover all of the Objectors’ assets. In particular, the extent of the yellow shading needs to be extended to cover:

- (a) INEOS’s pipeline north of the A1085 roundabout; and
- (b) SABIC’s pipeline through the centre of Plot 59a.

Plans showing the additional areas of land which need to be covered are contained in Annex 4 of the Objectors’ separate Deadline 6 Submission in relation to the Protective Provisions.

Plans showing the additional areas of land which need to be covered are contained in Annex 4 of the separate submission outlined in blue. INEOS’s pipeline is marked “1” and SABIC’s “2” on the plans.

Additional areas where there is apparatus adjacent to the Order limits are also outlined in blue on the plans at Annex 4 of the separate submission. Although the Objectors themselves do not have interests to protect in those areas of land, the Protective Provisions are intended to be of application to all pipeline owners and operators and it is important that their interests are properly and similarly protected.

The Applicant seeks to make arbitrary distinctions between:

- (a) Those parts of pipelines which fall within the Order land (which are protected) and those which fall just outside (which are not); and
- (b) Those parts of the pipelines which fall within the area where permanent works are to be carried out (which are protected) and those which fall within land which is to be taken temporarily (which are not).

This approach would be likely to lead to a scenario where an owner or operator of a pipeline some distance away from the works is asked to approve works details, whilst the owner of a pipeline closer to the works (but outside the pipeline corridor) is not.

The Objectors’ requirement that the pipeline corridor plan is amended is again designed

	<p>to deal with a real and important issue for both SABIC and INEOS in relation to the known location of pipelines and is a limited and sensible amendment</p>
<p>DCO</p>	<p>Article 6(1)</p> <p><i>“The undertaker may from time to time within the Order limits provide and operate the authorised development together with works ancillary to the authorised development, as may be necessary or convenient for the construction and/or operation of the authorised development, and for these purposes the undertaker may construct and maintain roads, railway lines, buildings, sheds, offices, workshops, depots, walls, foundations, fences, gates, tanks, pumps, conduits, pipes, drains, wires, mains, cables, electrical substations, signals, conveyors, cranes, container handling equipment, lifts, hoists, lighting columns, weighbridges, stairs, ladders, stages, platforms, catwalks, equipment, machinery and appliances and such other works and conveniences as may be necessary or expedient.”</i></p>
	<p>Article 6(1) of the Draft Order makes very broad provision for “ancillary works” within any part of the Order land including roads, railway lines and buildings.</p> <p>Article 6(1) is based on wording found in a number of Harbour Empowerment Orders made under the Harbours Act 1964. For example the Hinkley Point Empowerment Order 2007. However, unlike the Hinkley Point order, the Draft Order does not provide for a company to become a harbour authority within a defined area.</p> <p>Similar wording is also included in certain Development Consent Orders, for example the Able Marine Energy Park Development Consent Order; however this power was limited to the area within the limits of the harbour for which a harbour authority was already assigned.</p> <p>The Draft Order differs from these examples in that it does not make provision for a harbour authority to be assigned.</p> <p>It is inappropriate for the Order to grant such wide powers for ancillary works within any part of the pipeline corridor and the Objectors therefore object to Article 6 applying to that land on the basis that:</p> <ul style="list-style-type: none"> • The Applicant does not propose that the undertaker should be made harbour authority; • Such wide powers are not necessary for the nature of the development (a conveyor leading to a quay); • The conveyor is ancillary to the harbour facilities and is therefore “associated development”. This means it is not part of any harbour created. • The Objectors’ undertakings are of regional and national significance. Details are set out in Annex 3 of the Objectors’ separate Deadline 6 Submission in

	<p>relation to the Protective Provisions. Given the seriousness of even a minor interruption in the Objectors’ operations the precise scope of the works which can be carried out in the pipeline corridor warrants forensic examination and justification, and it is inappropriate that such broad powers should be granted.</p> <ul style="list-style-type: none"> • The Applicant has not put forward any substantive arguments as to why Article 6 should apply to the pipeline corridor. <p>The Objectors therefore submit that Article 6(1) should be excluded in its entirety. In the event that Article 6 is included in the final Order, the power in Article 6(1) should be limited to the area of the new quay (Work No.2).</p>
DCO	Conveyor Routing
	<p>Work No.4 is the construction of “parallel conveyors”. The location of these conveyors is shown on the Works Plans and they are defined as the “conveyor route (northern)” and the “conveyor route (southern)”.</p> <p>In the event that the Order is made, the Objectors have a strong preference that the conveyor route (southern) should be excised from the Order for the reasons set out below.</p> <p>Document 3.15 shows the pipeline corridor shaded in yellow. This demonstrates the large amount of apparatus belonging to the Objectors and a number of other Wilton operators situated within the majority of the Order land, particularly the conveyor route (southern).</p> <p>It is important that, if the Order is made, it limits to the greatest extent possible the interaction between the authorised development and the Objectors’ apparatus, especially given the financial consequences of any disruptions to the Objectors’ apparatus (set out in more detail in Annex 3 of the Objectors’ separate Deadline 6 Submission in relation to the Protective Provisions).</p> <p>If the southern route is excised from the Order, the conveyor route would:</p> <ul style="list-style-type: none"> • avoid the point in the route where the Objectors’ apparatus and the conveyor are at the highest density; and • run along a much shorter section of the pipeline corridor. <p>This would greatly reduce the potential for conflict between the Objectors’ apparatus and the authorised development and minimise the likelihood of any disruption to the Objectors’ apparatus.</p>