

Lynne Aspery

From: Planning Admin
Subject: FW: R/2021/0676/FF
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From: Rob Asquith
Sent: 09 September 2021 17:11
To: Planning Admin <PlanningAdmin.Admin@redcar-cleveland.gov.uk>
Subject: R/2021/0676/FF

On behalf of Glen Jenkins, Head of Estates, BOC Ltd

please see attached a letter of objection to the above planning application.

I would be grateful of confirmation receipt of this objection. The objection is by BOC.

Rob Asquith
Director - Head of National Infrastructure Planning
Planning

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09 September 2021

Dear Mr Pedlow

**Planning Application reference R/2021/0676/FF
Engineering operation to create trench associated with the subterranean
diversion of the BRAVO-10 pipe bridge**

We write to confirm BOC's objection to planning application reference R/2021/0676/FF, which proposes "Engineering operation to create trench associated with the subterranean diversion of the BRAVO-10 pipe bridge" at the above site. The Applicant is South Tees Development Corporation (STDC).

We note from R&CBC's online planning application page that Sembcorp, the owner of BRAVO-10, has objected to the planning application. BOC has pipeline assets on BRAVO-10. BOC and its customers also stand to be significantly disadvantaged by the proposal as currently constituted and hence BOC also objects.

Importantly the objection is not just to the effects of the proposal in terms of the necessity of diverting all BRAVO-10 services once the proposal is installed, which is considered impractical. It is also to the practicalities of constructing the culvert in close proximity to the BRAVO-10 pipe bridge whilst it is in operation.

Background - BOC's Operations

BOC is a member of The Linde Group, a world leading gases and engineering company with 50,000 employees working in around 100 countries worldwide. The company serves a variety of end markets including chemicals & refining, food & beverage, electronics, healthcare, manufacturing and primary metals. BOC's industrial gases are used in countless applications, from life-saving oxygen for hospitals to high-purity & speciality gases for electronics manufacturing, hydrogen for clean fuels and much more. BOC also delivers state-of-the-art gas processing solutions to support customer expansion, efficiency improvements and emissions reductions.

BOC's Teesside operations are primarily focussed on the pipeline supply of gases (Nitrogen, Oxygen and Hydrogen) to the local chemical cluster which are delivered by a network of over 80 miles of pipelines running throughout the region.

The proposed works creates significant potential issues with two of BOC's major supply pipelines namely System 20 and System 115. Pipeline supply of industrial gases is not an intermittent supply mode or one that can be shut off easily without significant levels of co-ordination interaction and planning amongst all those involved so the impact here would be considerable.

System 20

The System 20 pipeline is a major supply route providing Nitrogen to three major customers namely SABIC, MGT and CF Fertilisers based north and south of the River Tees. The Nitrogen is used by the customers primarily for safety critical applications within their respective chemical processes such as blanketing or inerting. Interruption of pipeline Nitrogen for more than 24 hours would have a significant impact on their respective operations and safety cases. There is the possibility of carrying out a "Hot Tap" on the pipeline to maintain Nitrogen supplies, but this does not come without its risks, and a detailed risk assessment would need to be undertaken all those impacted. At this time BOC is not aware of any planned customer outages taking place. The situation is in fact quite the opposite CF have just finished their Ammonia 4 shutdown, MGT are in a commissioning phase for their new biomass power station, and SABIC are currently carrying out some purging of their North Tees cavities and infrastructure. Therefore, the need for Nitrogen is actually above what we see as normal levels.

System 115

BOC's Steam Methane Reformer at North Tees produces hydrogen and supplies it via the System 115 pipeline to the Huntsman Polyurethanes facility at Wilton. Huntsman require the Hydrogen for the manufacture of Aniline which is subsequently shipped to their main processing facility in Rotterdam. In the case of system 115 which carries gaseous hydrogen "hot tapping" mentioned above is not an option. In addition, due the flammable nature of Hydrogen any work on System 115 needs to be undertaken completely separately from work on any of the other pipelines or structures for safety reasons. There would also be a requirement for a significant period of purging the full pipeline from North Tees to Wilton (approx. 8.5 km) both prior to and after any pipework break. The only available option to undertake this magnitude of work would be during a period of planned downtime. The next planned shutdown of the BOC SMR is scheduled for 2025.

The Proposals and BOC's objection

The Applicant wishes to bring forward the regeneration of Teesworks, an area of significant unused brownfield land to the west of the BRAVO-10 pipe bridge.

A series of pipelines travel via Bravo-10 pipe bridge above an unnamed road that leads off Tees Dock Road. This road provides access to Teesworks. We understand that STDC are seeking to widen the road and/or the possible realignment of the corridor in this location. To improve access to Teesworks the Applicant is seeking to convert 10 Bravo Pipeline Bridge

to an underground crossing. Provision of the culvert to achieve this is proposal for which the Applicant is seeking planning permission.

We understand there is a workable alternative to achieving improved access to the land proposed for redevelopment.

The Town and Country Planning, England Infrastructure Planning (Hazardous Substances) Regulations 2015 list hydrogen in Part 2 of Schedule 1 as a named hazardous substance. The Health and Safety Executive and Environment Agency must therefore assess all proposals requiring consent under these regulations prior to consent being given.

BOC's operational site is also subject to Control of Major Accident Hazards (COMAH) regulations and we therefore remind the Council that they must comply with these regulations and have a duty to liaise with the Health and Safety Executive in this instance.

Sembcorp also comments in its objection that there is insufficient detail available to conclude that the culvert design as applied for is capable of accommodating the services currently using BRAVO-10 given the need to connect the culverted pipelines back to the existing lines either side of BRAVO-10. There also appears to be inadequate assessment of ground conditions. We share these concerns, and our objection includes these points.

Our objection is not to the intended re-development of Teesworks but reflects that there has been inadequate consultation with existing operators of economic infrastructure that will be affected – in this case specifically BRAVO-10. The Applicant may take the view that provisions protecting the rights and businesses of existing economic operators will exist within leases or other arrangements and hence that planning permission can be achieved independently of other processes. BOC's view however is that the planning system must protect existing businesses from the implications of development proposals, no matter how otherwise beneficial the proposals themselves may be.

The proposals as currently constituted run contrary to the NPPF and the adopted development plan (see below). This is because they will prejudice existing commercial activities on which the local economy, and the wealth and employment it supports, are highly dependent.

BOC is keen to work with the Council to find a mutually acceptable solution, but there is a risk that extra burdens and constraints could be placed on BOC's business causing it to modify its operations. Any modifications to BOC's operations could impinge on its productivity and long-term viability, with negative impacts upon the local economy, other businesses, and jobs likely to result from this.

Planning Policy

The National Planning Policy Framework and adopted development plan policy (the Redcar & Cleveland Local Plan 2018) set out how existing land uses are to be protected from inappropriate development.

National Guidance

The NPPF establishes the overall purpose and objectives of planning under the heading “2. *Achieving sustainable development*” in paragraphs 7 and 8. Paragraph 8a explains the economic objective of planning as being one of three interdependent objectives, the other two being social (8b) and environmental (8c).

The economic objective of planning (paragraph 8a) is to build a strong responsive and competitive economy. Whereas that is the intention behind the proposed development, the very real costs to existing businesses and the communities they support must have at least equal weight. Paragraph 8a concludes including the following explanation how the economic objective may be achieved “... *by identifying and co-ordinating the provision of infrastructure*”. If allowed as applied for these proposals will do the very opposite of co-ordinating infrastructure. They will seriously impede the role current infrastructure plays in supporting the activities of BOC and others on which the prosperity of the local economy relies.

Paragraph 8c, the social objective of planning – *strong, vibrant and healthy communities* - will also be set back if BOC’s business is affected adversely by the proposal, as we believe it must be.

Part 6 of the NPPF is titled “*Building a strong, competitive economy*”.

The potential impact of the proposal upon existing business operations is contrary to NPPF para 81, which states:

“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. ...”

Para 83 states “*Planning ... decisions should recognise and address the specific locational requirements of different sectors.*”.

BOC’s view is that in allowing the application, R&CBC would be setting back BOC’s ability to invest, adapt and expand. The proposed new carbon capture plant BOC has recently gained planning consent for at North Tees (from Stockton on Tees Borough Council), for example, might be set back by an interruption to the existing hydrogen business on which it is based. BOC operates in the Teesside area partly because of the availability of infrastructure such as BRAVO-10 that support its industrial gases business. This specific locational requirement that facilitates BOC’s activities and those of its customers (such as Huntsman Chemicals and SABIC) would be seriously undermined by the uncontrolled closure of BRAVO-10, even if that were for a short period of time.

Part 15 of the NPPF is titled “*Conserving and enhancing the natural environment*”. Under this is the sub-heading “*Ground conditions and pollution*” beneath which para 187, states that:

*“Planning policies and decisions should ensure that new development can be integrated effectively with existing business **Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after***

they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed. (our emphasis).

In this case the “agent of change” would be the Applicant. It should be incumbent on them to identify an acceptable way forward that mitigates the adverse effects of the proposals, which they have not done.

Adopted Development Plan Policy

The Redcar & Cleveland Local Plan was adopted in 2018. As well as considering the relevant policies of the Local Plan, other text in the development plan is relevant.

Page 15 of the R&CLP sets out the Vision for Redcar and Cleveland. It says:

*The Redcar & Cleveland Local Plan will ensure that, by 2032, the needs and aspirations of our communities will be met through the delivery of sustainable development across the borough. **We will grow a successful and resilient economy, generating jobs and prosperity for people and businesses in Redcar and Cleveland. We will strengthen our economic assets** by building economic capacity; growing and diversifying the local economy; and enhancing the borough as a place of choice. Our workforce will be competitive, with high standards of employability and the skills that businesses need. [Text highlighted by BOC for emphasis].*

BOC's concern is that the proposals is that the proposals will, unintentionally, weaken existing assets and hence set back the growth of the economy in the manner desired.

In the same vein the R&CLP sets out its intended outcomes starting on page 18. Outcome 1 “Grow our economy and create more jobs” sets “Local Plan Priorities”, which are:

- *Safeguard existing businesses and support them to grow*
- *Secure inward investment*
- *Get local people into jobs*

BOC's view is that the proposal will set back these priorities. It will have the effect of damaging local businesses that rely on the BRAVO-10 pipe bridge and hence will hinder their ability to grow. It follows the other two priorities may also be set back.

Chapter 5 starting on page 85 of the R&CLP concerns Economic Development. It starts by saying:

*5.1 Creating local employment opportunities is a key element in delivering sustainable communities and economic growth in the borough. The borough's economy has been based on the traditional steel and chemical industries, which were a characteristic of the area for much of the 20th century. **These industries remain important to the local economy** but,*

with growing world competition, they are increasingly vulnerable to overseas competition. ...
[Text highlighted by BOC for emphasis].

BOC's view is that the BRAVO-10 pipe bridge is infrastructure related to the chemical industry that remains a very key part of the local economy. As important economic components locally, it is correct the pipelines that cross it should be protected from adverse effects of other efforts to stimulate the local economy.

This is addressed in **Policy ED6 – Promoting Economic Growth**:

Land and buildings within existing industrial estates and business parks, as shown on the Policies Map, will continue to be developed and safeguarded for employment uses.

In planning terms BRAVO-10 is a building. It should therefore be safeguarded.

Policy ED 6 further states:

“Alternative uses of employment land and buildings

*Proposals for alternative uses on the sites listed above, or other buildings in Use-class B1, B2 or B8, **will only be acceptable where they:***

e. would not adversely affect the economic growth and employment opportunities in the area;

.....and

*i. **would not prejudice the operation of neighbouring properties and businesses.**” [our highlighting for emphasis]*

As stated earlier in this letter the proposed culvert will prejudice the operation of BRAVO-10, which it neighbours.

Planning conditions

Planning conditions may be used to make development acceptable that could otherwise only be refused planning permission. In this case the only way in which the proposed development can be made acceptable is through a very carefully considered programme of works which interacts with timings and other operational conditions relating to BOC and the other companies that use the BRAVO-10 bridge.

In reality this would introduce significant delays to the implementation of the proposals – as such a condition may not pass the tests of being reasonable and precise. Such a condition would have to be worded negatively and rely on the actions of third parties and hence would be what is referred to as a Grampian condition.

Alternatively a planning obligation may be used but this would also have to pass the same tests.

Summary and Conclusion

BOC is concerned that proposals subject to planning application reference PA/2021/0676/FF would adversely affect our existing operations and those of our existing customers on Teesside. We do not believe that we have been adequately consulted on these proposals and are keen to ensure that our input to planning this work is fully incorporated in the process. We are concerned to ensure that the works necessary to divert each and every pipeline carried on BRAVO-10 pipe bridge is planned far ahead and done safely with due regard to the nature of the fluids and gases carried across the pipe bridge. At present there is no evidence of this and hence there is a very real risk R&CBC would be granting planning permission for something that would set back existing businesses substantially which would run contrary to the objectives of planning as set out in the NPPF and to the policies of the R&CLP, which is the adopted Development Plan.

We understand alternative means to achieve the desired access to Teesworks may exist. We believe it is highly important the Applicant seeks to realise this alternative because of the significant adverse effects that would result from the interruption to BOC's business and the business of other companies if the proposals were implemented as applied for.

We also note the requirement to consult the HSE as part of the planning application process under COMAH and hazardous substances regulations.

BOC further request that they are kept updated with regards to the subsequent progress of the planning application.

Yours sincerely,



Glen Jenkins

Head of Estates, UK and Africa