The Department of the Environment,
Transport and the Regions

The Bristol Port Company
Royal Portbury Dock

Section 139 Grant Application

Project Assessment

August 2000

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3. ENVIRONMENT AND PLANNING

Overview

3.1 Of the proposed works and working practices, only the construction of 500 metres of new railway line outside the port's boundary fence requires Planning Permission, and it is on this aspect of the work that the Environmental Statement (ES) concentrates. The Applicant produced the ES after commissioning a number of specialist consultants to produce studies which fed into the assessment process.

3.2 The route proposed for the 500 metres of new line crosses a stretch of Green Belt land in the flood plain of the river Avon, parts of which enjoy multiple designations reflecting the environmental quality and sensitivity of the area. The proposal is that trains should enter the port's facilities via a tunnel through the existing coal stockyard bund.

3.3 Within the port area, the line will run for roughly 500 metres through a County Site of Nature Conservation Importance (CSNCI), which lies immediately adjacent to the Severn Estuary. The General Cargo Area will also lie within the CSNCI. The estuary enjoys multiple designations for the significance of its importance to nature conservation.

3.4 The ES notes all of these (and other) environmental designations applicable to the estuary and the surrounding area, including the Green Belt designation applicable to the wedge of land between Pill and the port boundary fence. It also cites local and national policies which favour rail freight over road haulage, and concludes that there is a general presumption in favour of the construction of a rail link to the port, provided it causes minimal damage to the environment.

3.5 The reinstatement of the Bristol-Portishead branch line is to be dealt with by Railtrack. The Applicant's ES notes that Railtrack has commissioned:

- an Environmental Report which addresses the impacts of the refurbishment works and the operation of trains on the ecology of the Avon Gorge; and
- a study to determine noise and vibration impacts on the most affected property in Pill and Bedminster.

3.6 Following a discussion with Railtrack, Symonds understand that the ecology report (produced by Landmark consultants) deals with all aspects of the sensitive ecology of the branch line corridor, including bats, badgers and rare species of tree. The sensitivity arises from the fact that the line forms a "green corridor" through or adjacent to two SSSIs (the Avon Gorge/Leigh Woods and Ham Green). As well as being submitted to the Planning Authority, the report was also submitted to bodies such as English Nature, the Environment Agency and the National Trust (in its capacity as an affected landowner) prior to consultation taking place with these and other interested parties. Symonds understand that there was no requirement for Railtrack to carry out these studies and have, therefore, not reviewed them.

Comment on the Environmental Statement

3.7 The ES was required by North Somerset Council, the Unitary Authority responsible for the Royal Portbury Dock area. Although it is understood that planning permission has now been granted, Symonds consider that the ES is uneven in its treatment of different issues, to a degree that might give encouragement to an opponent of the scheme who was determined to call for judicial review.

3.8 In particular, Symonds consider that the ES deals with impacts on the water environment in a cursory and incomplete manner. The new railway line will cross an area of low lying grassland that is currently subject to regular flooding. The embankment on which it will be built will inevitably disrupt existing patterns of surface water drainage, and an area to the south west of the embankment will be taken out of the flood plain of the Avon altogether. These matters are only touched on briefly in the ES, and their significance is not considered. Nor does the ES deal with contamination which may be introduced into the surrounding water environment as a direct result of railway operations. For example, no reference is made to the expected impacts of pesticides which are likely to be used to control weeds along the route of the railway, or of oil leaks from trains. It may well be that such impacts will be minimal, but Symonds consider that this should have been established in the ES.

3.9 Symonds has raised these concerns with the Applicant, and has received copies of correspondence between the Applicant's specialist consultant on hydrology issues and the Environment Agency dating from September 1999. This correspondence provides considerable comfort that the concerns expressed above regarding flooding and drainage have been properly considered and satisfactorily resolved. Further comfort was provided by speaking to the

Agency's development control officer dealing with the Application, who confirmed that no further concerns have arisen since the earlier correspondence, and that the proposal is expected to meet the Agency's requirements.

3.10 The issue of contamination is reported to have been raised during the planning process, and to have been settled to the satisfaction of North Somerset Council by reference to Railtrack's standing procedures for dealing with contamination incidents in areas of environmental sensitivity.

3.11 Surplus spoil from track construction within the existing port boundary fence and any surplus material from site levelling in the same area will be utilised to form the rail embankment and associated landscaped bund carrying the new railway. Symonds consider that these activities should be exempt from Waste Management Licensing, provided that the material is inert (uncontaminated) or not detrimental to the environment ('moderately' contaminated). If it is not, then alternative sources of inert material will have to be identified, and the agreement of North Somerset Council obtained before it can be used.

3.12 The Applicant has advised that only inert materials will be used to form the embankment, but no details of the sampling, testing, or assessment regime to establish that it is inert are given, and Symonds considers that they should be requested. Similarly, it should be confirmed that the backfilling of the existing pond prior to the construction of the embankment is likely to be treated as an exempt activity. If these assumptions were to prove ill-founded, the requirement for a Waste Management License would have cost implications and introduce long term liabilities.

3.13 Symonds consider that there is some potential for the generation of soil/landfill gas beneath the new embankment (and particularly in the area of the backfilled pond). This might arise from the natural peat strata and the fill materials respectively. Although the risk of damage is small, being in the open air, it would be prudent for the Applicant to undertake a risk assessment to determine the potential for gas affecting structures or enclosed spaces (such as culverts).

3.14 In general, Symonds consider that the ES is much stronger on the existing environmental conditions than it is on assessing the impacts which will arise from the construction, existence, operation and eventual de-commissioning of the rail link. It is also stronger on the construction impacts than it is on the operational impacts.

3.15 The sections on landscape, ecology, archaeology and cultural heritage, traffic and access, noise and vibration, air quality and light all appear to have been carried out to an appropriate level of detail, and in an appropriate manner. Although certain specific standards and criteria used by the specialist consultants in noise, vibration and air quality might be open to challenge, most such challenges could be classified as differences of reasonable professional opinion, and it is unlikely that adopting alternative standards or criteria would lead to any material difference to the conclusions which have been reached.

3.16 With the exception of the water environment and the construction impacts linked to the use of inert materials, which are discussed above, the only aspect which is not covered to the expected level of detail is the impact on agriculture. This is not a matter of concern, the agriculture of the area being limited to extensive grazing.

Conditions attached to the Planning Approval

3.17 Symonds has seen a report dated 6 June 2000 which is understood to be addressed to the planning committee of North Somerset Council. This document recommends that "subject to compliance with the departure procedures as defined in the Town and Country Planning (Development Plans and Consultations) Direction 1992, and subject to the Highways Agency withdrawing their direction in respect of the possible impact of the development on the M5 viaduct, the Applicants be required to enter into a Section 106 Agreement". The Section 106 Agreement is to cover: ecological mitigation/compensation, preference for passenger trains on the branch line if such a service is re-introduced, noise insulation works if applicable, a speed limit of 20mph on freight trains and the use of continuously welded rails.

3.18 It also recommends 16 conditions to be attached to any permission. These cover a range of issues including landscaping works and maintenance, the protection of existing trees and hedges, restrictions on site access arrangements and working hours, access for archaeologists (if appropriate), re-routing of the cycleway, the choice of materials (including those for the embankment), soil storage, flood and wetland management, control of run-off from the railway and certain limits on the operation of the railway which will be covered later in this Report.

Other consents

3.19 Symonds have not seen any other consents. As indicated above, it is expected that the contractor responsible for building the embankment will need to register an exemption from Waste Management Licensing before moving spoil from the port area to create the embankment. Any exemption will cease to be valid if any contaminated material is used. The ES and the planning conditions both make it clear that it is not the Applicant's intention to use non-inert materials.

Environmental implications of changed operational practices within the port area

3.20 The Applicant advises that Planning Permission is not required for works inside the existing boundary fence due to development rights already possessed by BPC. Linked to this, and as noted above, the ES does not deal with all of the changes within Royal Portbury Dock's existing ring fence. It describes the new infrastructure works that are proposed, but not the likely changes in operational practices.

3.21 There will be works on the south eastern edge of the coal storage area to create dedicated wagon loading facilities adjacent to the new sidings. This new area is close to the boundary of the coal storage area, and will be a source of some dust. However, the wagon loading area will benefit from dust suppression measures in the form of water sprays.

3.22 Different coals vary considerably in their physical and chemical structure. Some contain relatively high levels of heavy metals which can constitute a risk to the environment if discharged in either solution or suspension. Run-off from coal storage areas is also often relatively acidic. The port currently has settlement ponds and a water treatment plant to deal with these issues. The Applicant has confirmed that their existing settlement ponds and waste water treatment plant have generous spare capacity, and certainly enough to handle the additional maximum daily flow of $2m^3$ which they calculate will enter the coal stockyard's drainage and treatment system as a result of the additional dust suppression spraying.

3.23 Probably the biggest single consideration where dust and particle levels are concerned is the frequency with which coal stockpiles which have been compacted (to avoid problems with spontaneous combustion, for example) are cleared. Coal in the base layer of a compacted stockpile is likely to contain a significantly higher than normal percentage of fines which could contribute to dust or contamination of surface water.

3.24 There is no *a priori* reason to think that the levels of coal particles found in the air (as dust) or in surface water will change significantly as a result of this proposal.

3.25 In the absence of any need for Planning Permission, no conditions to investigate or remediate contamination/pollution within the existing port area have been imposed by North Somerset Council or the Environment Agency. As a consequence, the Applicant has not provided any information regarding ground contamination or its absence.

3.26 However, it is stated in the project documents and confirmed by historical mapping in the ES that excavation materials were deposited on the site when the dock area was dug. This material is considered by the Applicant to have been inert, since it arose from the natural strata. However, in some areas this has subsequently been capped with hardcore to provide hardstanding. The origin of the capping material is not specified, and there is a possibility that this material could be contaminated. Furthermore, some contamination may have entered the made ground from the materials stored there (coal and vehicles). Dockyards and docklands are generally considered potentially contaminative land uses as outlined in the DOE (now DETR) Industry Profile. The off-site implications of using these materials to build the embankment are considered above.

3.27 For all of these reasons Symonds consider that it would be prudent for the Applicant to undertake, as a minimum, a desk study to assess the contamination risk associated with the existing dock areas, and any environmental liability associated with the site. It should also be noted that if the Environment Agency considers the material on site not to be suitable for 'redeposit' under an exemption from Waste Management Licensing, then there will be significant cost implications for its removal for off site disposal. Any requirement for a Waste Management License (which is not thought likely by Symonds, but is possible) would have cost implications and introduce long term liabilities.

3.28 As with the off-site embankment works, there will be some potential for the on-site presence of soil/landfill gas in the storage areas, arising from the peat strata which was covered many years ago, and the fill materials respectively. Therefore it would be prudent for the Applicant to undertake a risk assessment to determine the potential for gas ingress into those new structures or other enclosed spaces which will be constructed.