

Adran yr Economi a'r Seilwaith
Department for Economy and Infrastructure



Llywodraeth Cymru
Welsh Government

Objection Ref OBJ0291

File Ref WG/REB/OBJ0291 – Origin UK Operations Limited

Response to Objector's Objection and Evidence: Origin UK Operations Limited

1. GROUNDS FOR OBJECTION

1.1. Details

- 1.1.1. A written objection was received from Mr Tony Chase of Gerald Eve on behalf of his client Origin UK Operations Limited (Origin) on 4th May 2016 in relation to the draft statutory Orders associated with the Welsh Government's proposals for the M4 Corridor around Newport. A further written objection was received dated 19th June 2017 in relation to the supplementary (No.3) Compulsory Purchase Order.
- 1.1.2. A witness statement was received from Mr Robert Beeney on behalf of Origin dated 26th April 2017.
- 1.1.3. The Welsh Government understands the evidence submitted within both the written objection and the witness statement to be based on the following:
1. the acquisition of land would remove the main external storage and handling area and part of the main processing and storage building;
 2. the construction of the proposed motorway will prevent or significantly impeded access to the dock by ship, so that it may no longer be possible to import the material required by the business;
 3. the construction of the proposed motorway would result in the removal of the Hazardous Substance Consent which the business requires to operate;
 4. given the major constraints and threats to its business if the land it leases is taken as part of the Scheme, there would be no other option than to relocate from the current premises;
 5. the Welsh Government has not entered into any meaningful discussions with Origin, nor sought to engage with them, with a view to exploring the possibility of the purchase of their interests by agreement; and of exploring alternative routes for the proposed motorway and alternative land take;

2. WELSH GOVERNMENT'S RESPONSE

2.1. Points Raised

2.1.1. The above points are dealt with by topic by the relevant witness in the following sections, in addition to their general proofs of evidence, to which readers should also make reference in their entirety for a full understanding of the Welsh Government's case. For ease of reference the places where the above points are addressed in this Rebuttal are listed in the table below:

Objector's point reference	Rebuttal paragraph reference	Objector's point reference	Rebuttal paragraph reference
1	2.2.1	4	2.2.1
2	2.2.2	5	2.2.1
3	2.2.1		

2.2. Matthew Jones (Chief Witness)

2.2.1. In response to **Point 1** (the acquisition of land would remove the main external storage and handling area and part of the main processing and storage building), **Point 3** (the construction of the proposed motorway would result in the removal of the Hazardous Substance Consent which the business requires to operate), **Point 4** (given the major constraints and threats to its business if the land it leases is taken as part of the Scheme, there would be no other option than to relocate from the current premises) and **Point 5** (the Welsh Government has not entered into any meaningful discussions with Origin, nor sought to engage with them, with a view to exploring the possibility of the purchase of their interests by agreement; and of exploring alternative routes for the proposed motorway and alternative land take);

1. Since receiving the original objection the Welsh Government, assisted by the project team, have looked to engage with ABP and Origin in order to determine a suitable location within Newport Docks for the relocation of Origin's business such that it can continue to exist and operate within Newport Docks during the construction and operation of the proposed M4CaN Scheme.

2. A meeting was held with Origin on 28th June 2016 to updated Origin on the progress of the Scheme and the upcoming Public Inquiry Process. The Welsh Government also stated that they wished to provide assistance to companies to mitigate any potential impact of the proposed Scheme and therefore invited those affected to submit an initial business case for such assistance. Origin also provided further information about the operations of the business and its needs.
3. Throughout 2017, extensive discussions took place between ABP and the Welsh Government which led to the development of a package of mitigation works to address the temporary and permanent impacts the proposed Scheme had on the Newport Docks (and any affected tenants) and ABP withdrew its objections on 31 January 2018 following the entering into of a legal agreement between ABP and the Welsh Government. The agreed proposals are outlined in the Scheme Evidence Update of Matthew Jones (WG 1.1.8), supported where necessary by other Welsh Government Witnesses and Environmental Statement Supplements 5 and 6. As part of the development of these proposals the Welsh Government met a number of times with Origin to discuss Origin's current operations, facilities, user requirements and consent applications.
4. The proposals outlined in the Scheme Evidence Updates, which are now agreed with ABP, provide for Origin to be relocated to the south of South dock on an equivalent basis.
5. A summary of the agreement reached with ABP on 2nd February 2018 is contained in Public Inquiry Document (PID) 196.
6. Mr Andy Clifton outlined in his Scheme Evidence Update (WG 1.11.4) the work undertaken by the project team to assist Origin with the application for a new Hazardous Substance Consent which included seeking pre-application advice and consulting with appropriate section of the HSE to determine whether the proposals would comply with modern safety standards. The Scheme Evidence Update was published on 20th December 2017 and at that time a pre-application was under consideration and the Health and Safety Executive (HSE) and Newport City Council were currently considering the pre-application submission. A full, formal application for a Hazardous Substances Consent to relocate

Origin to the south of South Dock was submitted by the Welsh Government on behalf of Origin taking account of the pre-application consultation.

7. Joanna Vincent (Programme Officer) enquired about the status of Origin's objection to proposed Scheme in an email to Mr Tony Chase on 12th February 2018 (agent acting on behalf of Origin). Mr Chase replied on 22nd February 2018 confirming that Origin's principal objective is to secure an alternative premise from which Origin can operate within Newport Docks. Mr Chase acknowledged that Origin have been engaging in discussions with ABP and Welsh Government, and considerable progress has been made to the extent that a location for a replacement facility within Newport Docks has been identified and designs for the facility have been prepared; however:
 - i. planning permission has not yet been granted;
 - ii. confirmation has not yet been received from the Health and Safety Executive that the proposals are acceptable and a new Hazardous Substance Consent would be granted;
 - iii. in the absence of the two points above, Origin has no certainty that the proposed relocation premises will be provided and are capable of use of Origin for its operations.
8. With regards to point i) above, Mr John Davies in his Scheme Evidence Update (WG 1.23.6) explains why in his view, subject to detailed considerations of design, siting and measures to ensure flood risk is addressed, there is no apparent planning reason why permission should not be granted for the Welsh Government's proposals to address the impact of the Scheme on Newport Docks
9. With regards to point ii) above, a letter from the HSE dated 9th March 2018 was received which confirmed their agreement to the proposed relocation of Origin (refer to Public Inquiry Document 227).
10. On 15th March 2018 Newport City Council (NCC), who are the relevant hazardous substance authority, granted permission for the Hazardous Substances Consent application for the proposed relocation of Origin's operations to south of South Dock (refer to Public Inquiry Document 232).

11. With regards to point iii) above, the agreement with ABP legally commits the Welsh Government to use its best endeavours to attempt to reach an agreement over a solution that works for Origin and it will continue to liaise with Origin in that regard. The Welsh Government acknowledges that there is an overriding marine reason for Origin to remain located with Newport Docks and the agreement with ABP is such that in the event that agreement with Origin as to the facilities to be relocated is not reached, then the Welsh Government is entitled (should the proposed Scheme proceed) to compulsorily purchase Origin's leasehold interests. In those circumstances, Origin would be entitled to compensation based on the code that governs payment of compulsory purchase compensation
 12. With regard to Origin's objection to the proposed Scheme, disruption to its business (including the potential for its interest to be acquired by compulsory purchase order) must be balanced against the wider social economic and environmental benefits of the proposed Scheme
 13. If a relocation agreement cannot be reached with Origin and ABP, notwithstanding use of best endeavours, then Welsh Government would compulsorily purchase Origin's interest and Origin would be entitled to compensation. If no relocation agreement is reached with ABP and Origin the compulsory purchase of Origin's interest is a matter that needs to be weighed against the other social, economic and environmental benefits of the Scheme.
 14. Liaison with Origin and ABP will be ongoing.
- 2.2.2. In response to **Point 2** (the construction of the proposed motorway will prevent or significantly impeded access to the dock by ship, so that it may no longer be possible to import the material required by the business);
1. As outlined in the Scheme Evidence Updates which were issued on 20th December 2017, the Welsh Government (in agreement with ABP) intent to extend and narrow the Junction Cut within the South Dock and revise the entry parameters and protocols for shipping entering the North Dock. These proposals are outlined in my Scheme Evidence Update (WG 1.1.8) the Scheme Evidence Update of Mr Ben Sibert (WG 1.5.7) and Mr Jonathan Vine (WG 1.22.5).

2. At the time of writing the Scheme Evidence Updates, the final width of the narrowed Junction Cut was still to be confirmed as either 11m or 13.5m between fendering. ABP have since completed an independent Navigational Risk Assessment which corroborates the conclusions of the Welsh Government's probabilistic risk assessment. As such, the width of the narrowed Junction Cut would be 13.5m (please refer to PID 239).
 3. Mr Jonathan Vine provides information on the percentage of vessels which would be impeded by a 13.5m beam restriction at the narrowed Junction Cut in his Scheme Evidence Update (WG 1.22.5) for vessels which have visited the North Dock between 2005 and 2015. For a 13.5m Junction Cut width he concludes that 54% of the vessel visits (46% of unique vessels), assuming a 2m air draft clearance, between 2005 and 2015 would have been impeded.
 4. The Welsh Government has acknowledged that narrowing the Junction Cut would impede vessels from entering the North Dock and as such have agreed with ABP to provide the phased creation of approximately 303m of new quay on the north side of South Dock and the refurbishment of 250m of quay on the south side of South Dock in order to increase the common user berthing facilities available within the South Dock to accommodate vessels which have been displaced from the North Dock due to the narrowing of the Junction Cut.
 5. The distance between the proposed 250m of refurbished quay on the south side of South Dock and the proposed location of Origin's replacement facility is a similar distance between the Origin's current location and the existing common user quay. As such, no additional handling costs are anticipated due to the relocation of Origin's facility.
- 2.2.3. I confirm that the statement of truth and professional obligations to the inquiry from my main proof still applies.