

**Monday 11 May 2015**

**Application by Tata Steel UK Limited for the  
Port Talbot Steel Works (Power Generation Enhancement Order)  
Associated British Ports (ABP) – reference 1003007**

**Written Representations on responses to the ExA's second round questions**

**Deadline 7**

1. Our client Associated British Ports (ABP) has noted the Applicant's replies to the ExA's second round questions, which in the context of ABP's particular interest in the proposed development relate principally to the Applicant's wish to increase its level of water abstraction from the River Afan feeder channel, in addition to maintaining its high net consumption from the Port Talbot Dock, so as to be able to service both the current steel work operations and the proposed power station.
2. The ExA has already seen ABP's proposed solution to the concerns expressed by the Applicant as provided by the revised protective provision set out in ABP's written submissions for Deadline 6. It is unfortunate that the Applicant has not, as yet seen fit to respond to ABP's proposal which ABP considers meets all of the points of concern previously raised by the Applicant.
3. As the ExA is aware, ABP's position has been very clearly stated in its representations submitted on 23 April for Deadline 6. In view of its statutory duties and obligations, it is unable to move from that position. It will not assist the ExA if we simply rehearse ABP's stated position in these representations, but there are perhaps one or two additional comments which could usefully be made.
4. As far as the Applicant's replies to the ExA's second round questions are concerned, these were formulated on the basis of a protective provision proposed by ABP which has since been superseded by the version submitted by ABP in its Deadline 6 representations. The Applicant's comments can in that respect, therefore, be dispensed with. As indicated at the time of that submission and as noted above, ABP believes that its revised protective provision meets all of the Applicant's concerns.
5. In this context, the ExA will have noted that the Applicant wishes to increase its water abstraction from the River Afan feeder channel by some 50% more than is currently permitted by the agreement entered into by ABP and the Applicant. As the ExA will appreciate, such an increase in consumption would in fact be within the levels approved by the abstraction licence granted by NRW but would nevertheless be in breach of the Applicant's legal agreement with ABP - which incidentally, expires in December 2015.
6. In the current version of the protective provision proposed by ABP, however, the ExA will be aware that the Applicant is not precluded from taking such additional amounts of water - but may only do so with ABP's consent.

7. It would appear that at the time of submission of the application for the power station, the Tata project team were unaware of the existence of either of the legal agreements with ABP, the first of which limits the amount of water that can be taken from the feeder channel as noted above, and the second which (for clarification) whilst not limiting the quantity of water that can be taken from the Dock, does require the Applicant to pay for the cost of any impoundment required to maintain water levels within the Dock as well as the cost of maintaining and repairing equipment and machinery required to maintain such water levels.
8. The ExA should note in this context that the Applicant, through its consultants Aecom has agreed within the Water Management Group that the figure for consumptive abstraction by the Applicant is 20 million m<sup>3</sup> per annum. This figure was, therefore, used by ABP in its "snapshot" spreadsheet - attached to its written submissions for deadline VI. It is noted, however, that in the Applicant's representations of 23 April, they refer to "..... *the snapshot spreadsheet that the applicant and ABP have been working on since the submission of the DCO application* ...." This is not quite an accurate statement.
9. As ABP indicated in its written representations for Deadline 1, it has never had full confidence in the water abstraction modelling produced by the Applicant and its consultants, even though ABP's concerns were somewhat summarily dismissed by the Applicant in its own representations submitted for Deadline 2.
10. As a result of this lack of confidence and the clearly, by their own admission, anomalous results produced by Tata's assessment, ABP decided to create its own "snapshot" spreadsheet. The principal purpose of the spreadsheet is to act effectively as a check upon the Applicant's own results. The exercise has also, however, enabled ABP better to understand the impacts of the Applicant's proposed increased water abstraction in that the results produced by the Applicants and their consultants have always been somewhat difficult to understand - even making allowance for the admitted anomalies.
11. At first the Applicant was less than convinced that such an exercise would be of assistance. As ABP's spreadsheet has since been approved by NRW, however, it appears also to have been adopted by the Applicant and its consultants.
12. It is also perhaps instructive to consider in the context of the proposed increased levels of water extraction, the historic position before the Applicant and its predecessors, sought to abstract water from the Dock for the adjacent steel works operations. Historically, water levels within the Dock were maintained by the River Afan via the feeder channel - together with more recently (since 1950), sea water pumped impoundment.
13. In fact, it is probably fair to say that the need for impoundment only arose in real terms when the Applicant's predecessors began, shortly after the Second World War, to abstract what is to all practical intents and purposes, very large quantities of water from the River Afan feeder channel and the Dock. This need for increased abstraction to meet steel production demands coincided with greater shipping activity in the Port and notably with larger vessels with greater draft requiring greater depth of water.
14. Whilst it is understood why the Applicant wishes to ensure that water levels are maintained in the Dock sufficient to meet its "amber" warning level, it should also be acknowledged that, apart from in a very dry season, the water level in the Dock only falls to a level that raises concern because of the amount of water already being abstracted by the Applicant. As a consequence, ABP entirely reasonably, looks to the Applicant to reimburse it for all costs incurred in maintaining port operational water levels within the Dock - as detailed in ABP's proposed protective provision.

15. In conclusion, therefore, whilst ABP does not object to the proposed power station project, it has no choice but to maintain its objection to any proposal that would grant the Applicant any degree of control whatsoever over water management within the Port Talbot Dock without ABP's formal consent. As the ExA will appreciate, ABP is unable to take any other line with regard to the project, but it is hoped that the Applicant will agree that the draft protective provides the Applicant with precisely the guarantees that it has requested.
16. In this context the ExA should be aware that since its Deadline 6 submissions last month, Tata Steel has engaged positively, albeit somewhat late in the day, with ABP with a view to agreeing a way forward.
17. Discussions are continuing and the ExA will be kept fully informed as to progress.

Winckworth Sherwood,

On behalf of

**Associated British Ports**