



Marine Management Organisation

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Your reference: TR010016

The Planning Inspectorate
National Infrastructure Directorate

Our reference:
DCO/2018/00021

[By Email only]

29 April 2019

Dear Mr Willows,

THE PROPOSED A63 CASTLE STREET IMPROVEMENT- HULL ORDER RESPONSE TO SECTION 88 OF THE PLANNING ACT 2008 (AS AMENDED), RULE 8 LETTER

The Marine Management Organisation (MMO) has reviewed the Examining Authority's (ExA) 'Rule 8 Letter', dated 01 April 2019.

The Marine Management Organisation (MMO) is an interested party for the examination of Development Consent Order (DCO) applications for Nationally Significant Infrastructure Projects (NSIPs) in the UK Marine Area. The MMO received notification on 12 November 2018 stating that the Planning Inspectorate (PINS) (on behalf of the Secretary of State for Transport) has accepted an application from Highways England ("the Applicant"), for a DCO for the A63 Castle Street Improvement – Hull proposed development.

The MMO has an interest in this project, as it is associated with the extension of a marina platform to support the foundations of walkway for a new bridge for non-motorised users over the A63 Castle Street at Princess Quay, Hull. The application is also associated with the potential construction of a surface water outfall(s) within the Humber Estuary. The DCO application includes a Deemed Marine Licence (DML) under Section 65 of the Marine and Coastal Access Act 2009 (MCAA 2009) and should consent be granted for the project, the MMO will be responsible for monitoring, compliance and enforcement of DML conditions.

In accordance with the deadlines specified under the Examination Timetable for the proposed A63 Castle Street Improvement - Hull, I am writing to provide the MMO's response to the ExA's Deadline 1.

Deadline 1 consists of:



INVESTORS
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- Comments on any updates to Application Documents submitted by the Applicant before or at the Preliminary Meeting;
- Comments on Relevant Representations (RRs);
- Summaries of all RRs exceeding 1500 words;
- Written Representations (WRs) by all Interested Parties (IPs);
- Summaries of all WRs exceeding 1500 words;
- Statements of Common Ground (SoCG) requested by ExA – see Annex E;
- Response to any further information requested by the ExA for this deadline
- Post-hearing submissions including written submissions of oral cases
- Notification by Statutory Parties of their wish to be considered as an Interested Party by the ExA;
- Notification of wish to speak at any subsequent Issue Specific Hearings (ISH);
- Notification of wish to speak at a Compulsory Acquisition Hearing (CAH);
- Notification of wish to speak at an Open Floor Hearing (OFH);
- Provision of suggested locations and justifications for site inspections for consideration by the ExA;
- Notification of wish to attend an Accompanied Site Inspection (ASI); and
- Notification of wish to have future correspondence received electronically

Of these items, the MMO considers the following relevant for inclusion in this response:

- Comments on any updates to Application Documents submitted by the Applicant before or at the PM;
- Comments on Relevant Representations (RRs);
- Summaries of all RRs exceeding 1500 words;
- Written Representations (WRs) by all Interested Parties (IPs);
- Notification by Statutory Parties of their wish to be considered as an Interested Party by the ExA;
- Notification of wish to speak at any subsequent Issue Specific Hearings (ISH);
- Notification of wish to attend an Accompanied Site Inspection (ASI); and
- Notification of wish to have future correspondence received electronically

1. Summary of the MMO's Relevant Representation

1.1 Following receipt of a Section 56 notification, the MMO submitted our Relevant Representation to the ExA on 17 December 2018. Due to the length of the Relevant Representation, the MMO was unable to submit its comments in full via the PINS website. Instead, a copy of the MMO's full representation has been submitted to PINS via email (A63castlestreet@pins.gsi.gov.uk).

1.2 A summary of the main points raised in the MMO's Relevant Representation to PINS is provided below.

1.3 The MMO provided a summary of the pre-applications engagements held with the Applicant, the Local Planning Authority (Hull City Council), and external consultants (Arup and Sweco). This summary included references to both teleconferences and formal responses to email enquiries and the subject matter addressed.

1.4 Further to the points raised under **paragraph 1.3** of this letter, pre-application engagements primarily concerned a marine licence application for the extension of a marina platform to support the foundations of a walkway for a new bridge for non-motorised users over the A63 Castle Street at Princes Quay, Hull (**MMO reference:** MLA/2018/00358), and covered the following topic areas:

- a) the construction phase of the Princess Quay Bridge;
- b) the relocation of the Spurn Lightship;
- c) the drafting of Habitats Regulations Assessments (HRA), under regulation 63 of The Conservation of Habitats and Species Regulations 2017, and Assessment of Implications on European Sites Screening Report (AIES); and
- d) the potential requirement for a marine licence for the removal and deposit of pontoons, as well as for the for the construction and operation of the site compounds.

1.5 Further to the points raised under **paragraphs 1.1** to **1.4** of this letter, the MMO also summarised discussions held with the Applicant on 22 November 2018, during which the requirement for further engagement in discussions concerning the development of Statements of Common Ground (SoCG) were highlighted.

1.6 The MMO expressed the opinion that the data and assessments presented in the Environmental Statement (ES) were generally appropriate to the nature and scale of the works associated with this DCO application. Despite this, the MMO identified several issues within the ES and consequently, advised that further consideration of the likely environmental impacts of the proposed development was required. Overall, the revisions to the ES, as recommended by the MMO in our Relevant representation are as follows:

- a) The requirement for the proposal to be assessed against the relevant policies of the East Marine Plan.
- b) The need for the ES to be updated to accurately reflect the consenting status of the Princes Quay Bridge marine works, as already licensed under **MLA/2018/00358**.

1.7 With respect to the scope and content of the DCO, the MMO identified a number of activities that were potentially licensable under MCAA 2009, noting that any such activities to be undertaken within the UK Marine Area must be included and permitted under a DML.

1.8 Further to the point raised under **paragraph 1.7** of this letter, the MMO also advised that that DCO be revised so as to remove reference to the construction of the Princes Quay Bridge, for which a marine licence has already been granted.

1.9 With respect to the scope and content of the DML, the MMO expressed its concern that Schedule 9 of the DCO was not fit for purpose, in its current form. Specifically, the MMO noted that the DML must contain the following information:

- a) A clear definition of all abbreviations and terms referenced;
- b) A accurate descriptions of all works to be licensed within the DML;

- c) A complete list of coordinates for the area(s) within which the licensable works are to be completed; and
- d) A complete list and details of agreed conditions with which the licensable activities must comply, including those agreed to ensure appropriate mitigation is secured.

1.10 The MMO concluded its Relevant Representation by noting the absence of engagement with the Applicant with respect to the drafting of the DCO and its associated DML. In this regard, the MMO invited future engagement from the Applicant to ensure that all marine licensable activities are appropriately considered and captured within any future drafted DML.

2. Comments on Relevant Representations

2.1 Hull City Council

The MMO note Hull City Council's (HCC) intent to submit a written representation on the matter concerning the scope and content of the DCO, unless otherwise resolved in the interim. To this end, the MMO would welcome engagement with both HCC and the Applicant, should they wish to discuss the inclusion of conditions within the DML, or any other matters within the remit of the MMO.

2.2 Historic England

The MMO note Historic England's (HE) concerns regarding, "insufficient detail within the DCO documentation to ensure how harm to the historic environment is minimised and appropriately addressed and secured". To this end, the MMO would welcome engagement with both HE and the Applicant should they wish to discuss the inclusion of conditions within the DML, or any other matters within the remit of the MMO.

2.2 Environment Agency

The MMO note the Environment Agency's (EA) concerns regarding flood risk and the implementation of flood mitigation measures. To this end, the MMO would welcome engagement with both EA and the Applicant should they wish to discuss the inclusion of conditions within the DML, or any other matters within the remit of the MMO.

In addition to the above, the MMO wishes to highlight **Section 2.6.70** of the ES which states:

"A rising main downstream of the pumping station would transfer flow to a receiving network or watercourse. At present, it is proposed to outfall (discharge) directly to the existing Yorkshire Water sewer however if consent is not granted the outfall would discharge to the River Humber through an existing sheet piled wall."

The MMO advise that the construction of new discharge structures (e.g. outfalls) or alteration of existing pipes may have their own requirements for marine licensing should the watercourse in question be considered to be within the UK Marine Area.

Any such activities to be undertaken within the UK Marine Area must therefore be included within the DML.

3. MMO Written Representation

- 3.1** As noted in our Rule 6 letter response to the ExA, issued on 11 March 2019, the MMO has had no engagement with the Applicant since the submission of our Relevant Representation on 17 December 2018, with respect to the scope and content of both the draft ES and the DCO of the A63 Castle Street Improvement - Hull Order.
- 3.2** Given the absence of any engagement with the Applicant, the MMO is thus, not able to provide any further comment on the DCO and associated DML beyond what we detailed within our Rule 6 letter response to the ExA and summarised in **Section 1** of this letter. The MMO therefore refers the ExA to our Relevant Representation for full details of the issues and recommendations that we have so far identified with respect to the scope and content of both the draft ES and the DCO of the A63 Castle Street Improvement - Hull Order.
- 3.3** The MMO wishes to take this opportunity to reiterate our willingness to engage with the Applicant to ensure that all, if any, marine licensable activities are appropriately considered and captured within any future drafts of the DCO and associated DML.
- 3.4** Whilst the MMO has not directly engaged with the Applicant on issues concerning the scope and content of both the draft ES and the DCO of the proposed development, it should be noted that the MMO has recently received a variation request for the marine licence for the extension of a marina platform to support the foundations of a walkway for a new bridge for non-motorised users over the A63 Castle Street at Princes Quay, Hull (**MMO reference: MLA/2018/00358/1**). Specifically, this request is to permit the removal of pile obstructions from Humber Dock. This request was received by the MMO on 14 March 2019.
- 3.5** With regards to the variation request **MLA/2018/00358/1**, the MMO has recently issued an Application Update request and subsequently placed the request 'on hold'. The Application Update was opened for the following reasons:
- a)** To enable the applicant to provide an updated method statement.
 - b)** To enable the applicant to make necessary changes to the application.
- 3.6** Further to the point raised under **paragraph 3.5** of this response, the MMO also brought the following items to the Applicant's attention with respect the requested variation:
- a)** The potential requirement for sediment sampling and analysis, undertaken in accordance with an MMO approved Sample Plan.
 - b)** Notification that any removal and/or detonation of Unexploded Ordnances (UXO's) at sea would require a separate marine licence.

4. Response to Examining Authority's Written Questions

- 4.1** Please see **Appendix A** for the MMO's response to the ExA Written Questions.

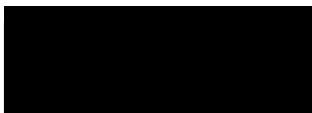
5. Notifications

- 5.1** Given the MMO's responsibilities or monitoring, compliance and enforcement of DML conditions, and the apparent requirement for works to be undertaken within the UK Marine Area, the Organisation would like to notify the ExA of its wish to be considered as an Interested Party for the A63 Castle Street improvement - Hull Order.
- 5.2** As an Interested Party for the A63 Castle Street improvement - Hull Order, the MMO also wishes to notify the ExA of its wish to attend the following scheduled events:
- a) Accompanied Site Inspections
 - b) Issue Specific Hearings
- 5.3** Further to the point raised in **paragraph 5.2** on this response, the MMO will confirm its attendance at any scheduled events closer to the respective dates.
- 5.4** As an Interested Party, the MMO would like to confirm its wish to receive any future correspondence regarding the proposed development electronically. To this end, the MMO would be grateful if you could ensure that those indicated below are added to the distribution list for PINS communications for this case.

The MMO reserves the right to modify its present advice or opinion in view of any additional matters or information that may come to our attention.

If you would like to discuss any specific matter further or require additional clarity, please do not hesitate to contact me directly.

Yours sincerely,



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Copies to:

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Questions directed to the Marine Management Organisation	
Question no.	MMO Response
1.10.5	<p>Under Section 2.2 of the MMO's Relevant Representation, submitted to the ExA on 17 December 2019, the MMO highlighted the need for PINS to have regard to the Marine Policy Statement and the East Marine Plan.</p> <p>The MMO advises that where any licensable works are to be undertaken within the UK Marine Area, the activities must be assessed to ensure that they are compliant with the relevant plans and policies.</p> <p>Whilst the application does makes reference to East Marine Plan, the MMO was unable to find any evidence of the Applicant's consideration of the proposed development against the policy texts.</p>
1.10.6	<p>In the event that a DML is required for this Order (e.g. for the installation of a surface water outfall within the Humber Estuary), the MMO considers that the offshore detonation of UXOs should be captured within the DML. This will negate the need for a separate marine licence being required and associated assessments, and thus, will not hinder the timely completion of the project as the result of having to obtain the necessary consents. The MMO recognises the difficulty in providing an estimate of the possible numbers of UXO and therefore recommends a potential worst case scenario is provided.</p> <p>In the event that a DML is not required for this Order (e.g. no activities to be undertaken within the UK Marine Area), the MMO considers that the offshore detonation of UXOs may be granted via the standard marine licensing process.</p> <p>Regardless of how the offshore detonation of UXOs is granted, the MMO considers that such activities must be fully considered and assessed within the ES.</p>
1.10.7	<p>With respect to Princes Quay Bridge, the MMO confirms that it granted a licence for this aspect of the proposed development on 5 November 2018 (application reference: MLA/2018/00358; licence number: L/2018/00390/1).</p> <p>Based on the details provided by the licence holder, by way of discharging the conditions of the granted marine licence, the MMO understands that the works were due to commence from 15 January 2019.</p> <p>As noted in paragraph 1.1 of our Relevant Representation, during pre-application engagement it was agreed with both the Applicant and the Local Planning Authority (Hull City Council) that the construction of the non-motorised Princes Quay Bridge constituted a discrete project in its own right and could, therefore, be progressed separately from the wider A63 Castle Street Improvement - Hull development. Given this, the MMO considers that the works licensed under MLA/2018/00358 should be removed completely from the draft DCO and its supporting documentation (including the ES).</p> <p>The MMO provided further comments on this topic in paragraph 2.3.2 of our Relevant Representation.</p>