

Clyde & Co LLP
The St Botolph Building
138 Houndsditch
London
EC3A 7AR
United Kingdom

Telephone: +44 (0) 20 7876 5000
Facsimile: +44 (0) 20 7876 5111
DX: 160030 Lime Street 5
www.clydeco.com

brian.greenwood@clydeco.com
Dir Line: +44 (0) 20 7876 6140

Colin Dunn
Department for Transport
Great Minster House
33 Horseferry Road
London
SW1P 4DR

Our Ref
BG/10028565

Your Ref

Date:
11 October 2019

Dear Mr Dunn,

Application by Suffolk County Council for an Order granting Development Consent for the Lake Lothing Third Crossing – TR010023

Associated British Ports (20013261)

Thank you for giving my client, Associated British Ports, the opportunity to respond to the comments made in the letter sent to you by the Applicant, Suffolk County Council (SCC) – dated 5 June 2019 – the last day of the examination - thereby precluding our ability formally to respond at the time.

To place this response in context, the Secretary of State should be aware that my client's position as detailed in its closing submissions (ABP:2 of 2 – DL11) and our letter to the Secretary of State dated 31 May 2019 remains essentially the same today as at the end of the Examination – namely:

- 1 ABP firmly believes that the Lake Lothing Third Crossing as currently proposed will cause “serious detriment” to the Port of Lowestoft; but
- 2 ABP is prepared to withdraw its objection to the Third Crossing proposal if the Applicant is prepared to –
 - i) Compensate ABP for the serious detriment that will be caused to the Port by the loss of its statutory port operational land required for the construction and operation of the Third Crossing and the consequent detrimental impact on the Port's business, both existing and future; and
 - ii) Indemnify ABP for all damage, loss and risks created or caused by the operation of the new bridge.

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The Secretary of State will wish to record that whilst ABP has been pressing the Applicant since the close of the examination with a view to making progress on both of these points, the Applicant has been worryingly slow to react to ABP requests - it is suspected because the Applicant believes that it will be in a stronger position to negotiate with ABP should the Secretary of State approve its application for the Development Consent Order.

As far as the Applicant's final submissions as detailed in its letter of 5 June are concerned, these fall essentially into two parts, namely. –

- 1 The question of "serious detriment"; and
- 2 The draft DCO

Taking each in turn, we would comment as follows:

Serious Detriment

ABP remains firmly of the view that the Third Crossing proposal, if implemented, will cause "serious detriment" to the Port of Lowestoft within the terms of section 127 of the Planning Act 2008. It is not our intention, however, merely to repeat submissions already before the Secretary of State.

Whilst we are very conscious that the Secretary of State will be taking into account all of the written representations and submissions submitted by ABP, in the context of "serious detriment" and to assist in terms of this response (and thereby avoiding repetition) we would draw the Secretary of State's attention to –

- i) ABP's Closing Submissions - (ABP: 2 of 2 – DL11);
- ii) ABP Written Representations - Comments on the Applicant's Response to ABP's Summary of Case at 8 March 2019 Hearing and to Second Written Questions (ABP: 1 of 1 – DL9);
- iii) ABP's Written Representations – Comments on the Applicant's Response to ABP's DL5 and Oral Submissions at 7 & 8 March 2019 Hearings – (ABP: 1 of 3 – DL8);
- iv) ABP's Written representations – Summary of Oral submissions made by ABP at the Examination Hearing held on Monday 1 April 2019 (ABP: 2 of 3 – DL8);
- v) ABP's Written Representations - Justification of Assumptions of Future Development at the Port of Lowestoft - (Annex 4 to ABP: 2 of 3 – DL8);
- vi) Statement given to the Examination by Andrew Harston, Regional Director for ABP's Short Sea Ports - (Annex 7 to ABP: 2 of 3 - DL 8);
- vii) ABP's Written Representations – Supplementary Note – "Serious Detriment" – (Annex 3 to ABP: 2 of 3 – DL7).

The Applicant's assertions - In its letter of 5 June, the Applicant attempts to argue either that the First Minister did not take into consideration the finding of "serious detriment" by the appointed Inspectors during the course of the M4 Relief Road public inquiry, or that if he did, that finding of serious detriment is inapplicable to the facts currently before the Secretary of State in the context of the Third Crossing proposal.

Both arguments are at best disingenuous and at worst, worryingly misleading.

In this context generally, it is worth noting for the record that neither the Applicant nor its legal representatives attended the M4 Relief Road public inquiry. As such, the assertions made by the Applicant as to both the recommendations of the appointed Inspectors and the decision of the First Minister should be read as purely speculative being neither correct on the facts nor on the face of the record.

The Applicant first asserts that the - *"passages of the Inspectors' report relied on by ABP are not referred to or endorsed in the Welsh Government's decision letter, and it is not clear from the Inspectors' report that the issues were ultimately contested (because ABP withdrew its objections to that scheme)."*

Second, the Applicant then asserts that - *"the M4 road scheme was a different scheme (a fixed bridge) with different effects on a different port"*

Taking these points in turn –

The First Minister's decision - the proposed M4 Relief Road, if it had been approved by the First Minister, would have cut through the middle of the Port of Newport as explained in our written representations submitted to the Examining Authority. ABP objected to that scheme on a number of grounds, principal of which was that the scheme would cause "serious detriment" to the Port of Newport under the provisions of section 16 of the Acquisition of Land Act 1981 which is effectively replicated by section 127 of the Planning Act 2008.

The Applicant is now endeavouring to persuade the Secretary of State that the issue of 'serious detriment' was not material to the First Minister's decision. The reality, however, is that Welsh Government, as the applicant, did in fact accept that the proposed Relief Road would cause "serious detriment" to the statutory Port of Newport and ABP's ability to carry on its port operations. As a consequence, Welsh Government entered into intensive negotiations with ABP - which led to a need to adjourn the public inquiry - with a view to identifying with ABP measures of mitigation which would reduce the extent of the serious detriment that would be caused by the proposed bridge to a degree sufficient to enable ABP to withdraw its objections.

The fact that this is the case is clearly evidenced by the letter, dated 2 February 2018 (attached), which was sent by ourselves to the Secretary of State, copied also to the Inspectors presiding at the inquiry. As the Secretary of State will see, that letter explains the serious detriment that the M4 Relief Road bridge would have caused to the Port of Newport in an unmitigated form and outlines the mitigation package offered by Welsh Government - which incidentally includes a formal Indemnity – the acceptance of which thereby enabled ABP to withdraw its objections to the M4 scheme.

In the light of these facts, it is patently absurd for the Applicant to attempt to argue that the issue of "serious detriment" in terms of the statutory test did not impact on both the Inspectors' recommendations and the consideration of the Inspectors' Report by the First Minister.

Indeed, if ABP had not withdrawn its "serious detriment" objection, with Welsh Government having accepted that their scheme would cause "serious detriment", it follows that the Secretary of State would have been unable to confirm the compulsory purchase that part of ABP's statutory port undertaking which was required to construct the motorway bridge.

In such a scenario, the Inspectors' report would have had to have included a separate submission to the Secretary of State on the section 16 "serious detriment" objection, recording that Welsh Government had accepted that its scheme would indeed have caused serious detriment to the Port of Newport and that as a consequence, in accordance with the provisions of section 16 of the 1981 Act, the Welsh Government's required compulsory purchase orders should not be confirmed which would have meant that the Relief Road scheme could not have been implemented by Welsh Government.

As it was, with ABP having withdrawn its objection, there was obviously no need for the First Minister to refer to the issue of “serious detriment”. Indeed it would have been wrong for him so to have done, save we would point out that importantly in the context of the Applicant’s assertion, in his decision the First Minister does state that –

“4.3 *When taking my decisions, I have had regard to all material considerations, including –*

4.3.1 *the [Inspectors’] report;*

4.3.2 *.....”*

The Inspectors’ report speaks for itself. Relevant extracts have already been provided (ABP Closing Submissions - ABP: 2 of 2 DL11), but for ease of reference, the Inspectors stated –

“Conclusions with regards to the effect of the scheme on Newport Docks and Associated British Ports

“8.195 The scheme proposals as originally envisaged in the initial publication of the draft Schemes and Orders would have been seriously detrimental to the undertaking of the Port of Newport in terms of the restriction on shipping and the inadequate provision to accommodate displaced vessels in the South Dock. The impact that the scheme would have had on the businesses of the tenants of ABP would also have been severe and the structural security of the proposed viaduct would have been threatened.

“8.196 Following the redesign of the scheme adjacent to the proposed viaduct and binding letters of agreement between the parties, the objections from ABP, the Newport Harbour Commissioners, the Port Security Authority and most tenants have been withdrawn. I draw attention to these agreements and conclude that they confirm a most satisfactory potential way forward for all concerned, either separately or individually.

“8.197 I further conclude that all the accommodation works agreed by the parties within the Docks are necessary to avoid the otherwise serious detriment to the undertaking of the Port.”

I trust that the above dispenses with the first assertion made by the Applicant in relation to the Third Crossing. We would only emphasise that, as far as our client ABP is concerned, all of the concerns noted by the Inspectors in the Newport case are equally and directly applicable to the serious detriment that would be caused to ABP’s statutory port estate and its operations at the Port of Lowestoft by the construction of the Third Crossing.

A different bridge scheme

Again, this point has been fully rehearsed before the Examining Authority and it is disappointing that the Applicant is still attempting to differentiate between the two schemes. Undeniably, the Port of Newport is in Wales whilst the Port of Lowestoft is on the east coast of England. Undeniably, the Welsh Government proposal contemplated a fixed bridge whilst the Applicant’s proposal contemplates a bascule bridge and undeniably, the scale and size of vessels accommodated by the Port of Newport, which is a deep-sea international port, differs from the scale and size of vessels accommodated by the Port of Lowestoft. That, however, is where the difference ends.

What the Applicant fails to acknowledge is that the bridge proposed to be constructed through the middle of the Port of Newport was to have been at a height of 24.2 metres maximum vessel acceptance based on future water levels. That was not a height which would have avoided both serious detriment to the Port of Newport's operations and avoided the risk of collision between a vessel and the bridge. This was accepted by Welsh Government which is why they agreed to indemnify ABP for all risks and losses arising as a result of the construction and operation of the bridge.

The identical position is presented by the proposed Third Crossing at Lowestoft.

Whilst the Applicant is proposing to construct a bascule bridge, the ability for ABP to control the lifting of the bridge is limited which in turn has a detrimental impact on ABP's ability, and indeed the ability of ABP's tenants, to carry on its operations within the Port – to say nothing of the detrimental impact of a bridge in the middle of an operational Port. In addition, if approved, the bascule bridge would be constructed at a height of 12 metres above Highest Astronomical Tide. This height is not sufficient to remove the risk of vessel collision with the bridge.

ABP has asked the Applicant to indemnify it for all losses and risks arising as a consequence of the construction and operation of the bridge. For reasons that ABP just cannot understand, whilst the Applicant has agreed to indemnify ABP for risks and losses arising during the construction of the bridge, it has refused to indemnify ABP for risks and losses arising during the operation of the bridge.

The only reason given by the Applicant for its refusal is that such an indemnity is without precedent. In response, ABP has pointed out, and demonstrated in its written submissions to the Examining Authority that the Applicant's proposal to construct a low bridge through the middle of an operational port is of itself without precedent.

Indeed, in terms of the similarity between the two Ports and the two bridge proposals, the similarity is underlined by the Inspectors' report to Welsh Government in relation to the Port of Newport, where in acknowledging the risks arising as a result of the operation of a bridge through the middle of an operational port, the Inspector states –

“8.198 I have studied the proposed engineering measures to offset and prevent the potential ship/viaduct collision and I am satisfied that these proposals, when taken together, would reduce the probability of an incident occurring to reasonably acceptable levels. The on-going monitoring and management of these facilities is so important that they should constantly be kept under review.”

For the Port of Newport, Welsh Government provided positive measures of mitigation as well as an Indemnity. For the Port of Lowestoft, the Applicant has made no offer of mitigation and has refused to provide an Indemnity. Whilst, therefore, there is clear similarity between the two bridge proposals – that similarity comes to an abrupt halt when one compares the sensible steps taken by Welsh Government with the absolute refusal of Suffolk County Council as Applicant, to acknowledge the serious detriment that will be caused to the Port of Lowestoft by the currently proposed Third Crossing.

Again, we trust that the comments above dispense with the Applicant's assertion that the finding of “serious detriment” arising in the case of the Port of Newport is of no relevance to the Lowestoft Third Crossing proposal – and indeed, as ABP has stated in its submissions to the Examining Authority, the same is the case for the finding of serious detriment in the *Hinckley Port C Connection Project* which detrimentally impacted upon the Port of Bristol in the context of the construction of overhead power cables case (ref. ABP Written Representations – Annex 3 to ABP: 2 of 3 – DL7).

Draft DCO

In terms of the comments made by the Applicant with regard to outstanding matters concerning the draft DCO, as I explained at the beginning of this letter, the position as at today's date is that very little progress has been made in negotiating the issues still outstanding between our client and the Applicant, essentially because the Applicant is showing a marked lack of willingness actually to discuss the issues outstanding and ABP is in any case far from convinced that the Applicant genuinely wishes to enter into meaningful negotiations with ABP.

In turn, however, ABP does need to know whether the Applicant is prepared to offer an Indemnity to cover losses and risks arising as a result of the existence of the bridge during its life and in addition, is the Applicant actually prepared to mitigate the detriment that will be caused to ABP in the carrying on of its operations, both in terms of existing and future business?

Turning specifically to the Applicant's comments –

Article 11 – Diversion of Commercial Road: despite the attempt by the Applicant effectively to minimise the seriousness of this issue, the fact remains that this is a point that was missed by the Applicant when it submitted the DCO application and ABP's concerns must be satisfactorily met. The fact remains that if this issue had been part of the submitted proposal that of itself would have further underlined the detrimental impact that the Scheme will cause to the ABP and its port operations if implemented.

Articles 2 and 20 – Navigation Working Group - noted.

Article 46 – Additional Byelaw 37G: This proposed amendment has been made at a very late stage and we would suggest, simply does not work. The Applicant's suggestion that ABP should accept the new proposed byelaw because it is broadly similar to Byelaws 37A to 37F is simply not correct and worryingly misleading. Byelaws 37A to 37F relate effectively to operational requirements very much along the lines of the existing Byelaws. The proposed Byelaw 37G relates more to the Scheme of Operation, upon which we comment below, and its enforcement. It is certainly unacceptable – and indeed both impracticable and potentially legally non-compliant - for the Applicant to suggest that in cases of conflict, its byelaw should "prevail" over those of ABP, the Statutory Harbour Authority.

In addition, we would add that in any case, it is not within the scope of a Scheme of Operation (as article 41 is drafted), to impose obligations on any person other than the undertaker. As a consequence, a byelaw which says that a master of a vessel must comply with the Scheme of Operation would be operationally confusing and impracticable because it would be unclear as to precisely what the master was being required to comply with in terms of two potentially conflicting regulatory regimes. If it is necessary to impose requirements on other persons arising from the operation of the Scheme, those specific requirements must be set out in byelaw or more conveniently in a general direction made by the harbour authority.

In light of the above, the proposed amendment cannot be accepted.

Requirement 11 – Navigation Risk Assessment: Throughout the examination the question of the NRA, its preparation and approval has proven to be somewhat of a "blind-spot" for the Applicant – perhaps understandably bearing in mind the technical marine provenance of such assessments which go to the ability of any Statutory Harbour Authority, properly and safely to operate its harbour area in full compliance with its legal obligations and duties. It will not assist the Secretary of State simply to repeat the arguments already made and recorded during the course of the examination. The practical reality is that ABP must be the final arbiter of the Navigation Risk Assessment – "acting reasonably" - and the proposals by the Applicant are not accepted.

Protective provisions – Whilst ABP has no objection to meeting any additional costs in relation to the NRA that are unrelated, both directly and indirectly to the existence and operation of the bridge – as noted above, the Applicant's refusal to meet ABP's request in terms of the essential indemnity to cover risks and losses arising as a result of the operation of the bridge is simply indefensible.

At the Examination, time and time again the Applicant fell back on the argument that there was no precedent for such an indemnity. As we have already pointed out, such an assertion is incorrect on two grounds –

- first by reason of the fact that Welsh Government provided a full Indemnity to ABP as part of its mitigation for the serious detriment that would be caused by its proposed Relief Road bridge across the Port of Newport, and
- second, because there simply is in any case, no precedent for the construction of a bridge through the middle of an operational Port.

Scheme of Operation – ABP's position with regard to the proposed Scheme of Operation remains as noted in its Written Representations, for example Annex 8 to ABP: 2 of 3 – DL8, and its closing submissions. Whilst ABP acknowledges the amendment offered by the Applicant, ABP still has serious reservations as to the practical application of the Scheme of Operation as detailed during the Examination.

Conclusions

In concluding, I should first reiterate on behalf of my client, our thanks for being given the opportunity to respond to the Applicant's final submission at the close of the examination. As you will have appreciated from the comments above, our client has found itself throughout this process in a somewhat invidious position. Whilst ABP does not object to the principle of a third crossing over Lake Lothing it cannot accept a proposal that contemplates the construction of a bascule bridge with restricted opening times, at a low height and which cuts through the middle of its operational Port - a port which as the Secretary of State is aware, is playing an increasingly important part in supporting the UK's sustainable energy supply.

Indeed, I should add, as was pointed out at the Examination, that in light of ABP's statutory duties and obligations, ABP's ability to operate the Port in compliance with those obligations and duties could well be seriously fettered in terms of both day-to-day operation and marine safety generally. Indeed, when the Third Crossing was first proposed, ABP did question the location of the bridge and the Applicant has throughout been fully aware of ABP's opposition - not to the principle of an additional bridge crossing - but to its location, which to be frank, as has been noted in our Written Representations, does rather defy common sense.

The issue of the serious detriment that will be caused to the Port of Lowestoft by the proposed Lake Lothing Third Crossing remains central to ABP's objection to the scheme. The justification for that objection is, if anything, underlined by a written representation submitted for Deadline 1 of the Great Yarmouth Third River Crossing NSIP examination by Goodchild Marine, a company based in the Port of Great Yarmouth. A copy of that representation, dated 1 October 2019, is attached and specific reference is drawn to the paragraph on page 3 headed 'Demise of Lowestoft'.

As the Secretary of State will appreciate, the lake Lothing Third Crossing NSIP process has been extraordinarily frustrating for ABP in that the unwillingness of the Applicant genuinely to engage with our client, its refusal to recognise the seriously detrimental impact that its proposal will have on the Port and the consequences that would then flow, and the entrenched stance

that it has adopted throughout the process, does rather reduce the options available to our client - options which ABP hopes can still be avoided.

Whilst meetings are still ongoing - albeit in a somewhat haphazard and disengaged fashion - the Secretary of State does need to understand that, however reluctantly, ABP has no option but to maintain its objection to the Third Crossing scheme as currently proposed.

Yours sincerely

[Redacted]

[Redacted]

[Redacted]

Brian Greenwood
Partner

[Redacted]

Clyde & Co LLP

[Redacted]

Enc.

Clyde & Co LLP
The St Botolph Building
138 Houndsditch
London
EC3A 7AR
United Kingdom
Telephone: +44 (0) 20 7876 5000
Facsimile: +44 (0) 20 7876 5111
DX: 160030 Lime Street 5
www.clydeco.com

brian.greenwood@clydeco.com
Dir Line: +44 (0) 20 7876 6140

The Rt. Hon. Chris Grayling MP
Secretary of State for Transport
Department for Transport
Great Minster House
33 Horseferry Road
London
SW1P 4DR

By Special Delivery

Our Ref
BG/10028352

Your Ref

Date
2 February 2018

Dear Secretary of State

**Associated British Ports - Port of Newport
Welsh Government – Proposed M4 Relief Road
Representations and Objections under Acquisition of Land Act 1981, section 16**

We write in relation to the above on behalf of our client Associated British Ports, the owner and operator of the Port of Newport.

As you are aware by various letters addressed to you over the past 21 months, we have made representations under section 16(1) of the Acquisition of Land Act 1981 on behalf of our client, objecting to the draft Highway Schemes and Orders including draft Compulsory Purchase Orders that have been published by the Welsh Government in furtherance of their proposals for the construction of a new section of the M4 motorway to the south of Newport. The representations relate to the seriously detrimental impact on the Port of Newport that will result from those Schemes and Orders as published.

ABP's representations, in summary, concern the Welsh Government's proposed design for that part of motorway crossing the Port which consists of an elevated section of motorway with associated junction and slip road that would bisect the Port, thereby introducing vessel and operational height restrictions which would cause "serious detriment" to ABP's statutory undertaking.

This "serious detriment" would arise both on the basis that the compulsory acquisition by the Welsh Government of land within our client's statutory port estate, which in terms of impact

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would act to the serious detriment of the carrying on of ABP's statutory undertaking - *section 16 (2) (a) of the 1981 Act*, and that the serious detriment could not be avoided by the replacement of the land that would be lost to ABP by the Welsh Government's compulsory acquisition - *section 16 (2) (b) of the 1981 Act*.

Our client's concerns are compounded by the fact that the introduction of an elevated section of motorway through the middle of the Port will lead to:

- The operational separation of the two docks at Newport (North and South Dock); and
- The introduction of new risks and hazards to ABP's operations, including vessel superstructure impact with the bridge, funnel smoke emissions across the bridge and risks to the port due to accidents on the elevated section of motorway - as well as raising the unwanted potential of serious injury and/or loss of life.

No other Port in the UK has to contend with such risks.

Over the course of the past six months ABP has been in detailed and constructive discussion with the Welsh Government who have recognised both the serious detriment that would be caused to the Port by the motorway scheme and the new risks that the construction of a motorway and junction in the middle of an operational Port will introduce to users of the Port and users of the motorway.

In terms of "serious detriment", the construction of the motorway bridge at the restricted height proposed will divide the Port into three parts - namely (a) that sector adjacent to North Dock to the north of the bridge; (b) that sector to the south and east of South Dock; and (c) that sector to the north and west of South Dock, but bounded to the north by the motorway. This means, for example, that the Port's fleet of mobile cranes will be restricted to one of these 3 sectors with no ability to move between the other sectors, which is essential to provide operational continuity and flexibility at the Port without wasteful triplication of cranes.

A further consequence of the restricted height of the bridge is that the Welsh Ministers will have to narrow the Junction Cut access into North Dock, in that by restricting the width of vessels, that restriction will by correlation limit the height of vessels able to enter North Dock, thereby reducing the risk of vessel strike with the bridge. As a direct result of this beam and height restriction, however, ABP will lose its ability to use North Dock to anything approaching its full extent - representing a very significant impairment of some 1,000 metres of berth space within the statutory undertaking of North Dock.

The measures designed to meet the "serious detriment" which have been offered by the Welsh Ministers include the construction of 303 metres of new quay in the Port's South Dock and the repurposing of an area of land adjacent to the quayside within the Port's former coal terminal, also in South Dock.

In addition, in order to address the operational problems that will be created by the construction of the motorway through the Port estate and to minimise the new risks and hazards introduced to the Port -

- a) The Welsh Ministers, as noted above, both in terms of serious detriment and mitigation generally, will narrow Junction Cut from its current width of 19.5 metres to 13.5 metres to reduce the risk of vessel collision with the structure of the elevated section of motorway by restricting the beam of vessels able to enter North Dock, meaning that only small height-restricted vessels will be able to pass into North Dock for as long as

the elevated section of motorway is in place. In addition, the construction of the elevated section of motorway will prevent ABP from widening the entrance into the North Dock in future given the height restrictions introduced by the elevated motorway. ABP's intention had been to widen Junction Cut from 19.5 metres to at least 30.0 metres.

- b) The Welsh Ministers will relocate elsewhere within the port those of ABP's tenants who are adversely affected by the scheme.
- c) In recognition of the operational constraints that the elevated motorway and the consequent height restriction on access between the northern and southern part of the Port will create for the movement of mobile cranes within the Port, the Welsh Ministers have agreed to fund the purchase of two new mobile cranes for North Dock.
- d) Welsh Ministers will provide a swing bridge across the entrance to Junction Cut thereby enabling mobile cranes and port traffic to access both sides of the Port, thus avoiding the height restriction introduced by the elevated section of motorway.
- e) In recognition of the changes to the profile and management of the risks affecting the Port because of the scheme and the measures set out above, the Welsh Ministers will enter into a Deed of Indemnity and Insurance to manage the risks of loss or damage to the Port because of the construction and operation of the motorway.

ABP has not objected to the principle of a relief road for the M4 in that the need for such a project is, in ABP's view, a matter entirely for the Welsh Ministers.

ABP also recognises the need to place this highway scheme in a broader South Wales context and wishes to work in collaboration with the Welsh Government - not against it - so as to ensure that Wales has the capacity, by all modes of transport to meet the opportunities for economic and trade growth which our client trusts will arise in the years to come.

On that basis and in light of the measures outlined above to which the Welsh Ministers have committed, our client is prepared to withdraw all of the representations and objections that have been made to you on its behalf objecting to the highway scheme under the provisions of section 16 of the 1981 Act.

In order to ensure the delivery of the "package" of measures outlined above, the Welsh Ministers have today entered into a Settlement Agreement (which encompasses matters such as timing of delivery, identification of works to be undertaken within the Port, construction and property issues), an Access Agreement (under which ABP grants the Ministers a licence to enter the Port to construct the motorway bridge and junction and to maintain it going forward). The Welsh Ministers have also agreed to indemnify ABP, by way of a Deed of Indemnity and Insurance, against all loss or damage caused to ABP as a consequence of the construction and operation of the motorway through the Port.

We are instructed to make clear that ABP's representations and objections made to you in relation to the M4 Relief Road are only being withdrawn in the expectation that the Welsh Ministers will comply fully with and deliver all of the obligations and undertakings to which it has committed in the legal agreements noted above.

We are today copying this letter to the Welsh Ministers, similarly withdrawing our client's objections to the Draft Highway Schemes and Orders in terms which make reference to this letter, and a copy of that letter is attached.

Yours faithfully



~~Brian Greenwood~~
Partner
Clyde & Co LLP

cc. The Welsh Ministers
The Planning Inspectorate



Goodchild Marine Services Limited,
Burgh Castle Yacht Station, Butt Lane, Burgh Castle, Great Yarmouth, Norfolk, NR31 9PZ.
Tel: **01493 782301** Fax: **01493 782306**
E-mail: info@goodchildmarine.co.uk Web: www.goodchildmarine.co.uk

For the attention of Dominic Young
The Planning Inspectorate
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

GYTRC@planninginspectorate.gov.uk
Your reference TR010043

1st October 2019

Dear Sir

Please find as follows our submission for the Deadline 1 Following on from the meeting of the 24th September at Great Yarmouth

I would like to confirm that we are not opposed to the 3rd River crossing if the infrastructure for the Lifting/Closing/Maintenance of the bridge is co-ordinated with the other 2 bridges which are currently in existence.

I will give a very brief outline of our issues with the current lifting of bridges that causes us and the complete Broads Network problems when trying to gain access to the sea.

- a. The reliability and the speed in which repairs are actioned when the Breydon Bridge and Haven Bridge fail in Great Yarmouth, causes the situation of access to sea untenable and has resulted in Goodchild Marine Services Limited, facing enormous financial losses.
- b. Our difficulty arises when the bridges are out of action and we must get a boat out to sea for trials/delivery/Boat show we have to either arrange lorry transport or Mutford Lock transit if operable for our smaller vessels but to transit through Mutford Lock is a day's journey for 2 staff members.
- c. Our larger vessels can neither go out by lorry or via Mutford Lock and at that point we are land locked.
- d. We have just completed the UK's first Hybrid Pilot boat which was booked into the Seawork Boat Show in June at Southampton. This vessel is very much in the public eye given the technological advances, so when we were advised this bridge was yet again out of action we had to seek alternatives. The maximum height available for road transportation is 5.1m which by dismantling the roof mounted equipment and engaging the services of a specialist boat transport company we managed to get permission to undertake the road delivery option. The costs of preparing this vessel for transport and the necessary permits amounts



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to £23,162.47 with many hours and pressures to get the boat to the show which was part of the commitment in the tender documents for the sale of this vessel.

- e. We had very similar difficulties with Bridges in 2018 in June prior to our Seawork Boat show, and again had massive costs in time and money to achieve getting two boats to Seawork Boat show in time for the commencement.
- f. These two issues are just a small indicator of the huge costs incurred throughout the last two years.
- g. The Haven Bridge was out of action last year for an undisclosed period awaiting reports on the electrical system, this period alone cost our company a refit which we had been awarded worth around £130k as the client was unable to get assurances from Peel Ports or the Council when the bridge would be operational again.
- h. This clearly is affecting our operation and the job security of our staff and in this case the previous client has declared they will not consider us in the future as the risk of becoming land-locked is too onerous on their operations.

The lack of co-operation between Breydon and Haven bridges has been challenging over the previous year's, however, with lots of hard work we have now started to see a co-ordinated approach between the following parties and ourselves, having instigated meetings to get all parties to talk together.

Norfolk County Council - Haven Bridge
Highways England – Breydon Bridge
Peel Ports Great Yarmouth – Contractor for control of both Bridges

Bridge Lifting

We see a definite need to have all 3 bridges controlled by 1 point of contact with various systems of booking ie.

Portal on line system

Telephone

VHF which is currently manned at Liverpool needs to be manned in Great Yarmouth

The Dutch system of Bridges to be lifted on demand would also be a system to look at.

Siltation and Dredging requirement, with the change of flow as a result of the main river narrowing this will inevitably change the tidal flow and will cause siltation to be of different quantities as is common now. If the Bridge changes this to such a point that the MMO licence we hold is insufficient to dispose of increased volumes we would seek support in gaining approval from the MMO for such increases, naturally this would increase our costs too. Having this assurance before the new bridge is constructed is critical to our operation.

Information to vessels and road users.

There needs to be LED type notices either side of each bridge to show the air draft so that vessels can assess if they can transit without the bridge lifting. This will need to include all 3 bridges as the river traffic will be joining at various points with so many bridges within the navigation.

The Road traffic can be very well managed if the notices on all the Highways on entering the District with an LED sign show what time on the screen each of the 3 Bridges will open during the day and traffic can divert to another route. (ie. as per Car Parks telling you how many spaces available a long way ahead of you approaching the car park).

Mast Lowering

For inbound vessel wishing to transit the river Bure it would be necessary to have suitable pontoon berths between the new proposed bridge and the existing Haven bridge to facilitate lowering of masts given the river Bure has two fixed low bridges, currently there are no safe moorings to allow for this if the single pontoon between the Haven and Breydon bridge is occupied.

Demise of Lowestoft

To further support our concerns on ensuring all bridges adopt efficient and reliable operations for navigation, evidence suggests that businesses upstream of the Lowestoft Bascule bridge have declined having a river crossing. However, this bridge does operate much more sympathetically to river users but the fact remains that businesses having a need to have reliable and easy access to the open sea have moved out. Some of these businesses have moved away from the area or had support to relocate in the old fish docks areas. Plans are well advanced for another river crossing in Lowestoft and from dealings with marine related businesses in the area grave concerns exist on likely impacts this further bridge may bring. I appreciate your examination is not focussed on Lowestoft, but in my view, it would be foolish to not study impacts this bridge has had on marine based businesses upstream which is a fear we have if bridges in Great Yarmouth do not adopt reliable and frequent openings.

Mutford Lock Exit to Sea via Lowestoft

There has been considerable talk over recent years that Mutford lock may become permanently closed due to increased maintenance costs and no financial support locally. Should this happen it is very clear the 3 bridges will be the only route for vessels wishing to transit between the Broads network and the open sea. It is therefore paramount these issues be addressed before introducing yet another obstacle to the navigation.

Pontoons close to the Bridge

It is welcomed to see on the drawings that waiting pontoons are being introduced adjacent to the new bridge foundation. However, having these so close to the bridge and on the outside of a natural bend in the river is inviting a disaster. Any large vessels that are transiting the open bridge are likely to drift outboard on a bend (simply nature of steering vessel when underway). Having these on the outside of a bend I would suggest is not the best solution and is inviting damage or worst sinking of any small craft moored there. If they must remain close to the bridge it would make much more sense to have these on the opposite side (inside of the rivers bend) which is much better protected should a vessel get things wrong. The stern of a vessel negotiating such a bend is extremely unlikely to drift into the bend.

Haven Bridge Maintenance

The age of this bridge and the lack of maintenance that has been carried out has caused an inordinate number of breakdowns. The statement in the meeting that they would repair this when the 3rd Bridge is installed is to say but the least crazy, what will happen if the new bridge does not materialise?

Navigational Access

The Navigation is always treated as 2nd Hand citizen to the Highways, but the river and sea brings in a lot of the local industry and employs a lot of local people whom depend upon efficient vessel movements. The 3rd crossing relating to the other 2 bridges needs to have a full and complete maintenance and operational systems (with spares being held) in place.

Yard Visit

We would like to invite you on a visit to our yard and we could then take you through the bridges on a vessel to show you the complexity of what we must deal with on a regular basis.

SoCG

Do you think there is a need to engage in a SoCGw with the applicant?

Our biggest concern is the lack of ability to get to sea if the bridges break down.

We hope this has been of assistance in progressing your thoughts.

Our very Kindest Regards



Sue Goodchild