

SCOPING OPINION

PROPOSED ABLE UK MARINE ENERGY PARK KILLINGHOLME, LINCOLNSHIRE

October 2010



independent impartial inclusive

CONTENTS

EXECUTIVE SUMMARY	3
1.0 INTRODUCTION.....	5
Background.....	5
Commission’s Consultation	6
Structure of the Document	7
2.0 THE PROPOSED DEVELOPMENT	8
Applicant’s Information	8
Commission’s Comment	14
3.0 EIA APPROACH AND TOPIC AREAS.....	17
General Comments on the Scoping Report.....	17
Topic Areas	20
4.0 OTHER INFORMATION	34
Appropriate Assessment	34
Health Impact Assessment.....	35
Other Regulatory Regimes	35
Climate Change National Policy Statements and EIA Regs.....	36
Applicant’s Consultation	37
APPENDIX 1.....	
APPENDIX 2.....	
APPENDIX 3.....	

Executive Summary

This is the Infrastructure Planning Commission's (the Commission's) scoping opinion (the Opinion) in respect of the content of the environmental statement for a proposed marine energy park at Killingholme in Lincolnshire by Able UK Ltd. (Able). The potential marine energy park will incorporate a new quay with associated onshore development; wind turbine manufacture, assembly and testing facilities incorporating two operational wind turbines; a 299MW biomass power plant and a helipad.

This report sets out the Commission's Opinion on the basis of the information provided in Able UK Ltd's report entitled 'Environmental Scoping Report (September 2010)' ('Scoping Report'). The Opinion is based upon the proposals as currently described by the applicant.

The Commission has consulted on the Scoping Report and the responses received have been taken into account in adopting this Opinion. The Commission is satisfied that the Scoping Report encompasses those matters identified in Schedule 4, Parts 1 and 2 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

The Commission draws attention both to the general points and those made in respect of each of the specialist topics in this Opinion. The main potential issues identified are:

- hydrodynamic and sedimentary impacts – arising from the construction and operation of the new quay and the dredging required to maintain its working depth;
- water quality impacts – arising from the disturbance and the possibility of spillage in the construction phase and permitted discharges and spillage risk in the operational phase;
- ecological impacts – including direct loss of habitat in an international designated area, the impacts of air and water discharges and the effects of emissions of noise, dust and light on protected habitats and species;
- flooding – the possibility of the proposed site flooding, or causing other sites to flood, thereby causing damage or leading to contamination of ground or surface water;
- air quality impacts - arising from the discharge from the power plant stack and from traffic emissions, particularly during construction;
- transport impacts – from shipping and lorry movements required during the construction and operation of the development;
- noise and vibration impacts – including construction, traffic and possible operational noise;
- visual impacts – as a result of the proposed tall structures within a flat landscape;

- socio-economic impacts – arising from the increased employment generated by both the construction and operational phases of the proposed development.

Matters are not scoped out unless specifically addressed and justified by the applicant and confirmed as being scoped out by the Commission.

1.0 INTRODUCTION

Background

- 1.1 On 17 September 2010, the Commission received a Scoping Report submitted by Able UK Ltd (the applicant) under Regulation 8 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (SI 2263) (the EIA Regs) in order to request a scoping opinion for the proposed Able UK Marine Energy Park at Killingholme in Lincolnshire. This Opinion is made in response to this request and should be read in conjunction with the Scoping Report.
- 1.2 The EIA Regs enable an applicant, before making an application for an order granting development consent, to ask the Commission to state in writing its formal opinion (a 'scoping opinion') on the information to be provided in an environmental statement (ES).
- 1.3 In submitting the information, the applicant has included with their request for a scoping opinion, notification under Regulation 6(1)(b) of the EIA Regulations that they propose to provide an ES in respect of the proposed Able UK Marine Energy Park, Killingholme, Lincolnshire. The proposed development is determined to be EIA development in accordance with Regulation 4 of the EIA Regs.
- 1.4 Before adopting an Opinion the Commission (or the relevant authority) must take into account:
 - 'the specific characteristics of the particular development;
 - the specific characteristics of the development of the type concerned;
 - the environmental features likely to be affected by the development'.

(EIA Regs 8 (9))
- 1.5 This Opinion sets out what information the Commission considers should be included in the ES for the proposed Able UK Marine Energy Park, Killingholme, Lincolnshire. The Opinion has taken account of:
 - i the EIA Regs;
 - ii the nature and scale of the proposed development;
 - iii the nature of the receiving environment; and
 - iv current best practice in the preparation of environmental statements.
- 1.6 The Commission has also taken account of the responses received from the statutory consultees. It has carefully considered the matters addressed by the applicant and has used professional judgement and

experience in order to come to this Opinion. The Commission will take account of relevant legislation and guidelines when considering the ES. The Commission will not be precluded from requiring additional information in connection with the ES when it is submitted with the application for a development consent order.

- 1.7 This Opinion should not be construed as implying that the Commission agrees with the information or comments provided by the applicant in their request for an Opinion from the Commission. In particular comments from the Commission in this Opinion are without prejudice to any decision taken by the Commission on submission of the application that any development identified by the applicant is necessarily to be treated as part of a nationally significant infrastructure project or associated development, or development that does not require development consent.
- 1.8 Regulation 8(3) of the EIA Regs states that a request for a scoping Opinion must include:
- i. a plan sufficient to identify the land;
 - ii. a brief description of the nature and purpose of the development and of its possible effects on the environment;
 - iii. such other information or representations as the person making the request may wish to provide or make.
- 1.9 The Commission considers that this has been provided in Able UK Ltd's Scoping Report.

Commission's Consultation

- 1.10 The Commission has a duty under Regulation 8(6) of the EIA Regs to consult widely before adopting a scoping opinion. A full list of the consultation bodies is given at Appendix 1. The list of respondents, with copies of those comments, is given at Appendix 2 to which reference should be made.
- 1.11 The ES submitted by Able UK Ltd must also demonstrate consideration of points raised by the statutory consultees. It is recommended that a table is provided in the ES summarising the scoping responses from the statutory consultees and how they are considered in the ES.
- 1.12 Any subsequent consultation responses, received after the statutory deadline for receipt of comments, will be forwarded to the applicant and should be given due consideration by the applicant in carrying out the EIA.

Structure of the Document

1.13 This document is structured as follows:

Section 2 The Proposed Development;

Section 3 EIA Approach and Topics;

Section 4 Other Information;

Appendix 1 Consultation Bodies;

Appendix 2 Consultation Replies;

Appendix 3 Presentation of the Environmental Statement.

2.0 THE PROPOSED DEVELOPMENT

Applicant's Information

2.1 The following is a summary of the information on the site and surroundings provided by the applicant in the Scoping Report. The Commission has not verified this information.

Background

2.2 The Scoping Report (at paragraph 1.1.3) provides an overview of the proposed Able UK Marine Energy Park project which comprises:

- a new quay (approximately 1,630m long);
- wind turbine assembly and testing facilities incorporating two operational wind turbines;
- a 299MW biomass plant with associated conveyors, fuel storage, cooling water system and electricity substation; and
- helipad.

2.3 In addition to the above, the development will also include:

- ancillary plant, equipment and buildings;
- internal roads plus car and heavy goods vehicle (HGV) parking;
- security fencing;
- landscaping of land within the site boundary;
- changes to site access from Rosper Road;
- diversion of existing public footpaths around the site;
- connection to the electricity grid infrastructure;
- surface water management systems;
- foul drainage provision; lighting and other aids to navigation; and
- ecological mitigation areas.

The Proposed Site

2.4 The proposed development site is located on Killingholme Marshes and North Killingholme Haven on the Humber Estuary and within the administrative area of North Lincolnshire Council. The site is bordered by the Humber estuary to the north east; former clay pits (now flooded and know as Killingholme Pits) and Haven Road to the north; Rosper Road and Burkinshaw's Covert to the west; and farmland to the south, beyond which lies Immingham Dock.

2.5 The proposed terrestrial development site is stated (paragraph 3.3.4 of the Scoping Report) as covering 223ha and at paragraph 2.1.4 as 299ha. However reference to Drawing AME-02003 shows an area proposed for manufacturing of 217ha and an area proposed for a

biomass power station of 30ha (total 247ha). The area on the drawing excludes some of the site and the access roads. Therefore the total area on the south of the Humber shown on Drawing AME-02003 amounts to 247ha, excluding both the marine development area and parts of the site and roadways. In addition the proposed marine development extends to 55.4ha, which will require the reclamation of 22.8ha intertidal and 32.6ha subtidal areas from within the Humber estuary.

- 2.6 Current uses on the site include vehicle storage areas in the northern part (paragraph 6.10.2 implies this storage area extends to 118ha) with the remainder of the proposed development site is in agricultural use.
- 2.7 A railway line passes through the site and a redundant sewage works lies in the west. A raised embankment along the river supports a flood defence wall. There is an existing footpath which runs between the existing developed areas and the foreshore.
- 2.8 An area is also identified on Drawing AME-02003 as a dredge area, no details are provided of the size.
- 2.9 A further area of land, outlined in red, is shown on the insert on Drawing AME-02003 on the north side of the Humber estuary approximately opposite to the main development site for a prospective ecological mitigation area. No site area is proved for this land. This area presently comprises farmland.

The Surrounding Area

- 2.10 The proposed development site lies on the south bank of the Humber estuary. The area surrounding the site is a mixture of farmland, small villages and various industrial, storage and port developments. The nearest town to the site is Immingham (approximately 3 km south) whilst the nearest villages are North and South Killingholme (approximately 2 km); and East Halton (approximately 2 km). There are also three isolated houses within 100 metres of the site boundary.
- 2.11 Industrial developments in the area include the Total oil refinery and the Conoco Philips combined heat and power (CHP) plant on the opposite (south-west) side of the Rosper Road. Immediately north of the site is the Humber Sea Terminal (HST); ABP Immingham Port lies to the south.
- 2.12 The area immediately surrounding the proposed ecological mitigation area is also farmland. Buildings in this area are predominantly farm buildings including farmhouses. The nearest villages to this area are: Thorngumbald (approximately 4 km), Keyingham (approximately 5 km) and Ottringham (approximately 6 km).

- 2.13 There are a number of nature conservation designations adjacent to the proposed development site:
- Humber Estuary Ramsar designation primarily due to near-natural estuary with various component habitats supporting, in particular, grey seals, birds and migration route for river and sea lamprey;
 - Humber Estuary SAC designated primarily due to Annex I habitats – estuaries, mudflats and sandflats not covered at low tide;
 - Humber Estuary SPA designated due to Annex I bird species;
 - Humber Estuary SSSI due to habitat, geology and coastal geomorphology;
 - North Killingholme Haven Pits SSSI designated especially due to waders and wildfowl and saline lagoon habitat.
- 2.14 Further afield Kirmington Pit SSSI to the south and Kelsey Hill Gravel Pits SSSI to the north are both within 10km of the proposed development site.
- 2.15 The Humber Flats, Marshes and Coast Important Bird Area (IBA) is a non-statutory designation as identified and monitored by Birdlife International. The designation is in recognition of the fact that the area is of international importance for supporting: a significant number of threatened bird species; exceptional numbers of migratory species and many bird species with restricted ranges.
- 2.16 The town of Immingham is a designated Air Quality Management Area (AQMA). In 2004 and 2005, this area exceeded its 24-hour mean objective for PM₁₀ (particles less than 10 micrometres in diameter). It is thought that these exceedances may be due to a combination of factors including particles released from industrial activities and coal storage and dust re-suspension by intensive HGV traffic.
- 2.17 The proposed site is shown on the Environment Agency (EA) Flood Zone Map as lying within Zone 3 (high probability zone). Flood defences in the area generally consist of earth embankments, mostly with rock or stone revetments and concrete wave walls. The current strategy for flood defences is to ‘hold the line’ (ie maintain the defences). Although it is acknowledged that continued erosion may make this difficult in the long term. The EA recommends a buffer strip is maintained between the estuary and any new development to allow for any work needed in the future.

Description of the development

- 2.18 The proposed development (see section 3.3 of the Scoping Report) includes the following key elements:

- a new quay about 1630m long with associated onshore development to serve the wind energy sector and on-site biomass power station;
- wind turbine construction and testing facilities comprising of manufacturing facilities for the offshore wind energy industry and quay facility that will enable turbine components to be loaded onto vessels for transport to off-shore wind farms, and two operational wind turbines;
- a 299MW biomass plant; with associated conveyors, fuel storage, cooling water system and an electricity substation; and
- a helipad – the precise location, design and operating capacity of this facility are yet to be determined.

2.19 Other facilities (see paragraph 1.1.4 of the Scoping Report) which it is proposed to include in the development are as follows:

- ancillary plant, equipment and buildings;
- internal roads plus car and HGV parking;
- security fencing;
- landscaping of land within the site boundary;
- changes to access from Rosper Road;
- diversion of existing public footpaths around the site;
- connection to the electricity grid infrastructure;
- surface water management systems and foul drainage provision;
- lighting and other aids to navigation; and
- ecological mitigation areas.

2.20 At paragraph 3.3.2 of the Scoping Report associated development is stated to include the following:

- diversion and alteration of roads and footpaths;
- diversion of watercourses;
- construction of new footbridges;
- ecological mitigation works;
- works for the accommodation of vessels; and
- relocation of statutory undertakers apparatus.

2.21 The prospective new quay will provide berthing facilities for vessels of up to 10 m draft throughout its length. A short section of the quay will accommodate vessels with a draft of up to 13.5m. The quay will be mostly be of solid construction being built of tubular and sheet steel driven piles. Vessel loading will be accomplished through the use of mobile harbour cranes and self-propelled mobile transporters.

2.22 It will be necessary to dredge the approach channel to the new quay to permit the passage of vessels with the required draft of 13.5m. This dredging will be undertaken by a combination of trailing suction hopper

and backhoe dredgers depending upon the type of material being dredged. The spoil site for disposal of dredgings will be agreed with the Humber Harbour Master and will be aimed, where possible, at retaining the dredged material within the Humber estuary system.

- 2.23 The manufacturing floorspace will comprise large industrial buildings, providing approximately 150,000m² of floor space, for the manufacture and assembly of offshore wind turbines. These buildings will be steel framed and up to 20m high. There will also be an extensive, floodlit outdoor storage area. Offices with paved parking will also be provided for management and administrative staff.
- 2.24 It is anticipated that the biomass plant will generate a net power output of 299MW and burn approximately 2 million tonnes of fuel per year. The primary fuel will be a combination of wood chips and wood pellets which will be sustainably sourced. Although below the current threshold (300MW) where carbon capture readiness is required to be demonstrated, land will be set aside for any additional plant that may be needed for this purpose in the future (see paragraph 3.3.27 of the Scoping Report).
- 2.25 The biomass feedstock, which will be transported to the site by sea in vessels of up to Capsize class ie up to 100,000 tonnes capacity. The feedstock will be offloaded by crane and stored in an enclosed facility capable of retaining sufficient material to run the biomass plant for approximately 20 days. Material from the store will be transported to the boiler house by conveyors.
- 2.26 Light fuel oil (LFO) will be used to start the plant. This procedure, which is expected to be carried out a maximum of five times per year, will require up to 750 tonnes of LFO to be burnt per annum. Approximately 500 tonnes of LFO will be stored on site.
- 2.27 The proposed plant will generate ash which will be stored on site prior to its removal by road, rail or ship. If possible, the intention is to use the ash for a 'beneficial' purpose either as fertiliser or in the building industry, although landfill is an option should this be the only viable disposal route.

Access

- 2.28 At present the proposed development area can be accessed from Rosper Road, which runs along the site's south-east boundary, and from two existing junctions on Haven Road to the north-west. The proposal for site operation, however, is that entrance to the site will be gained via two new access points in Rosper Road.

- 2.29 Access to Rosper Road can be gained from the A160. This road leads to the A180(T) which then joins the M180, and consequently the nationwide motorway network, some 10 km to the west.
- 2.30 The footpath which is proposed for diversion currently runs along the flood defence bund adjacent to the Humber. The plan is to divert this path around the edge of the development and possibly also around the Humber Sea Terminal north of the potential marine energy park site.

Traffic generation

- 2.31 Materials required in both the construction and operational phases of the proposed development will be delivered to the site by a combination of road, rail and sea transport. Biomass material will only be delivered by sea.
- 2.32 It is expected that HGV deliveries to the site, in its operational phase, will occur between the hours of 06:00 and 22:00.

Employment

- 2.33 It is expected that the total number of employees on site will exceed 5,000. The site is expected to operate 24 hours a day and 365 days per year on a shift work basis and employ a variety of professional, skilled and semi-skilled workers.

Construction

- 2.34 The construction and commissioning period for the project is expected to be approximately 24 months. It is expected that construction activities will commence early in 2012 and the facility to be part operational by early 2014.
- 2.35 Construction is likely to involve piling with the piles being of either the driven or the cast in-situ type.
- 2.36 Dredging works are expected to be undertaken by a combination of trailing suction hopper dredger and backhoe dredger depending upon material type.
- 2.37 Construction working hours are likely to be between 07:00 and 19:00 with extended hours for some activities. Approximately 500 direct full-time equivalent posts are likely to be generated during the construction phase of the project.
- 2.38 It is possible that traffic activities during construction could exceed 1,000 vehicle movements per day.

Commission's Comment

Description of the Development

- 2.39 From the description of the proposed development in the Scoping Report, it is unclear as to what is proposed to be included in the draft DCO. The applicant should ensure that the description of the proposed development that is being applied for is as accurate and firm as possible as this will form the basis of the environmental impact assessment.
- 2.40 Within the DCO, the applicant should clearly define what elements of the proposed development are integral to the nationally significant infrastructure project (NSIP) and which is 'associated development' under the Planning Act 2008 or ancillary development. In particular, the Commission reiterates the comments made in section 1 of this Opinion, that any development identified by the applicant in the application for the DCO will necessarily be treated as part of a NSIP or associated development, or development that does not require development consent.
- 2.41 Any proposed works and/or infrastructure required off-site as associated development, or off-site as an ancillary matter, should be considered as part of an integrated approach to environmental assessment. This could include, for example, the cumulative impact of the helipad and manufacturing facilities which may not constitute 'associated development' under the Planning Act 2008 and will need to be consented by the local authority under the town and country planning regime. The applicant is advised to take their own legal advice in this regard.
- 2.42 The Commission recommends that the ES should include a clear description of all aspects of the proposed development, at the construction, operation and decommissioning stages, and include:
- Land use requirements;
 - Site preparation;
 - Construction processes and methods;
 - Transport routes;
 - Operational requirements including the main characteristics of the production process and the nature and quantity of materials used, as well as waste arisings and their disposal;
 - Maintenance activities including any potential environmental or navigation impacts; and
 - Emissions (water, air and soil pollution, noise, vibration, light, heat, radiation etc).

- 2.43 The ES must set out an outline of the main alternatives studied by the applicant and provide an indication of the main reason for the applicant's choice, taking account of the environmental effects (Schedule 4, Part 1, paragraph 18 of the EIA Regs). The reasons for the preferred choice should be made clear and the comparative environmental effects identified in the ES.
- 2.44 The environmental effects of all wastes to be processed and removed from the site should be addressed. The ES will need to identify and describe the control processes and mitigation procedures for storing and transporting residual waste off site, and indeed if any pre-treatment is expected prior to being exported off site. All waste types should be quantified and classified.
- 2.45 The applicant should make every effort in the ES to assess the potential impacts of the proposed development including any known parameters (during construction, operation and decommissioning).

Flexibility

- 2.46 The Rochdale envelope principle (see *R v Rochdale MBC ex parte Tew (1999)* and *R v Rochdale MBC ex parte Milne (2000)*) is an accepted way of dealing with uncertainty. The EIA should assess a maximum adverse scenario (the 'worst case') in environmental terms. The applicant should in any event explain clearly in the ES which elements of the scheme have yet to be finalised and provide the reasons.
- 2.47 Whilst the Commission acknowledges that there may be some level of uncertainty in the description of the proposed development in the ES, the applicant must provide reasoned justification for this and fully describe all possible scenarios and parameters, any resulting potential impacts and any proposed mitigation measures. The maximum and other dimensions of the proposed development should be clearly described in the ES, with appropriate justification.
- 2.48 The ES should be able to confirm that any changes to the development within the proposed parameters would not result in significant impacts not previously identified. It will also be important to consider choice of materials, colour and the form of the structure and buildings. Lighting proposals should also be described.
- 2.49 The Commission notes that the process of EIA is iterative and therefore the proposals may change and evolve. For example, there may be changes to the scheme design in response to consultation. Such changes should be addressed in the ES. Once submitted, the application should not change in any substantive manner as the Commission is not able to entertain material changes to the project once the application is submitted.

2.50 It should be noted that if the proposed development changes substantially during the EIA process, prior to application submission, the applicant may wish to consider the need to request a new scoping opinion.

Grid connection

2.51 The Commission considers that grid connection for both the biomass plant and the two proposed on-site operational wind turbines should be addressed as part of the assessment.

2.52 The Commission recommends that it could be made clearer in the text that these two wind turbines will be connected to the grid. Although the text refers to the two wind turbines as 'operational' (see paragraph 1.1.3 of the Scoping Report) and there is further comment (see paragraph 6.15.7 of the Scoping Report) regarding their generation of electricity, not all of the consultees have understood this point.

Decommissioning

2.53 In terms of decommissioning, the Commission acknowledges that the further into the future any assessment is made, the less reliance may be placed on the outcome. However, the purpose of such a long term assessment is to enable the decommissioning of the works to be taken into account in the design and use of materials such that structures can be taken down with the minimum of disruption. The process and methods of decommissioning should be considered and options presented in the ES. The Commission encourages consideration of such matters in the ES.

3.0 EIA APPROACH AND TOPIC AREAS

General Comments on the Scoping Report

- 3.1 The Scoping Report (section 8.2: Outline of Environmental Statement) sets out the proposed structure of the Environmental Statement, which will include a separate Non-technical Summary. The Commission notes that the ES should be a stand alone document and should include all appendices as well as any photographs or photomontages. On the basis that such information will be made available and included in the ES, the Commission is satisfied with the approach proposed for the format.
- 3.2 The Commission recommends that the physical scope of the study areas should be identified under all the environmental topics and should be sufficiently robust in order to undertake the assessment. The extent of the study areas should be on the basis of recognised professional guidance, whenever such guidance is available. The study areas should also be agreed with the relevant consultees and, where this is not possible, this should be stated clearly in the ES and a reasoned justification given.
- 3.3 The Commission recommends that the baseline data is comprehensive, relevant and up-to-date. Surveys needed to inform the EIA are not always fully defined or provided within the Scoping Report and will need to be addressed. The timing and scope of all surveys should be agreed with the relevant statutory bodies.
- 3.4 The Commission considers that each assessment should consider all phases of use – construction, operation and decommissioning. The methodology of surveys and studies needed to inform the EIA are not always fully defined or provided within the Scoping Report and will need to be included. The methodology should use up to date regulations and guidance to undertake the assessment and the methodology should be agreed with the relevant consultees. Where this is not possible, a reasoned justification should be given within the ES.
- 3.5 The EIA Regs require the identification of the '*likely significant effects of the development on the environment*' (Schedule 4 Part 1 paragraph 20). The Commission recommends that the ES should set out clearly the interpretation of 'significant' in terms of each of the EIA topics and for significant impacts to be clearly identified. Quantitative criteria should be used where available. It is noted that Table 5.1 of the Scoping Report sets out the levels of significance that would be used as: Significant and Not Significant, with some impacts being identified

as both. Consideration should be given to the need to ensuring that this approach is applied consistently (see Appendix 3 of this Opinion). Also, that consideration should be given to the identification of 'neutral' and 'no change' impacts.

- 3.6 The Commission recognises that the way in which each element of the environment may be affected by the proposals can be approached in a number of ways but considers that it would be helpful, in terms of ease of understanding and in terms of clarity of presentation, to consider the impact assessment in a similar manner for each of the specialist topics. The Commission recommends that a common format should be applied where possible but considers that the scope – the breadth of topic, the physical and temporal should be described and justified.
- 3.7 The ES should not be a series of separate reports collated into one document, but rather a comprehensive assessment drawing together the environmental impacts of the proposed development as a whole.
- 3.8 The inter-relationship between specialist topics should not be overlooked, indeed this is a requirement of the Regulations. Cumulative, secondary and indirect impacts are proposed to be addressed in the EIA (paragraph 5.4.5) although the Commission draws attention to the commentary at Appendix 3 of this Opinion and in particular the terminology regarding cumulative and combined impacts, which suggests a preferred approach to be adopted. The Commission suggests that a clear terminology should be applied such that impacts resulting from a number of impacts on one receptor can be addressed in the ES (termed combined impacts) and that these are clearly differentiated from any impacts associated with those arising from other proposals in the area (cumulative impacts).
- 3.9 Combined impacts occur where a number of separate impacts, such as noise and air quality, affect a single receptor, for example people. The inter-relationship between specialist topics is a requirement of the Regulations.
- 3.10 The Commission considers that details should be provided as to how interactions will be assessed in order to address the environmental impacts of the proposal as a whole. This is particularly important in considering the combined impacts arising from any permutations to the scheme proposals.
- 3.11 It is indicated that cumulative impacts onshore will take account of planning applications in the area (paragraph 5.6.19). The Commission recommends that other major development in the area should be taken into account for the purposes of assessing cumulative effects through consultation with the local planning authorities and other relevant consenting bodies on the basis of major developments that are:

- built and operational;
- under construction;
- permitted application(s), but not yet implemented;
- submitted application(s) not yet determined;
- projects on the IPC's Programme of Projects;
- identified in the relevant Development Plan (and emerging Development Plans - with appropriate weight being given as they move closer to adoption) recognising that much information on any relevant proposals will be limited; and
- identified in other policy documents, (for example in Wales the Technical Advice Notes which establish strategic search areas) as development reasonably likely to come forward.

3.12 The Commission acknowledges that the level of detail for the assessment will depend on the certainty and availability of information about the impacts of such developments.

Matters to be Scoped Out

3.13 Matters are not scoped out unless specifically addressed and justified by the applicant and confirmed as being scoped out by the Commission.

3.14 The applicant has proposed that the following matters are to be 'scoped out' the text is the justification provided by the applicant at this stage:

Matters proposed by applicant to be scoped out (paragraphs 6.8.35 – 6.8.39 of the Scoping Report)

- Emissions from the start up of the biomass facility – as it is estimated that there will be 5 start ups per year using light fuel oil which will only last a few hours and is considered to be negligible impacts compared with the main stack emissions;
- Dust from transfer of woodchips and wood pellets from the vessels to the storage facility – as the fuel will be transferred from the vessel to the storage facility via an enclosed conveyor system;
- Fugitive emissions from biomass operation – enclosed silos with fitted filter bags will be erected to store fly ash produced by the biomass plant; and
- Emissions from shipping – assessment not needed for less than 5,000 shipping movements per year relying on Defra Local Air Quality Management Technical Guidance.

3.15 The Commission does not agree with these issues to be 'scoped out' and is not satisfied that sufficient evidence has been advanced at this stage to justify their being scoped out.

Alternatives

- 3.16 Although reference is made to alternatives in the Scoping Report (paragraph 7.2) no information has been provided. The Commission advises that an outline of the main alternatives considered for the proposed development should be provided in the ES.

Presentation

- 3.17 The applicant's attention is drawn to Appendix 3 of this Opinion regarding the presentation of the environmental statement.

Topic Areas

General Comments

- 3.18 The EIA Regulations Schedule 4, Parts 1 and 2, set out the information for inclusion in an ES.
- 3.19 Schedule 4 Part 1 of the EIA Regulations sets out the aspects of the environment likely to be significantly affected by the development which should include '*in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors*' (paragraph 19).
- 3.20 Traffic and transport is not specified as a topic for assessment under Schedule 4; although in line with good practice the Commission considers it is an important consideration *per se*, as well as being the source of further impacts in terms of air quality and noise and vibration.
- 3.21 Part 2 sets out the minimum requirements and is included below for reference:

Schedule 4 Part 2

- a description of the development comprising information on the site, design and size of the development;
- a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
- the data required to identify and assess the main effects which the development is likely to have on the environment;
- an outline of the main alternatives studies by the applicant and an indication of the main reasons for the applicant's choice, taking into account the environmental effects;
- a non-technical summary of the information provided [*under the four paragraphs above*].

3.22 The Scoping Report has considered the environment under the following topics:

- Hydrodynamic and sedimentary regime;
- Water Quality;
- Ecology and Nature Conservation:
- Commercial Fisheries;
- Drainage and Flood Risk;
- Noise and Vibration;
- Air Quality;
- Light;
- Geology and Ground Conditions;
- Marine Archaeology and Heritage;
- Terrestrial Archaeology and Heritage;
- Commercial and Recreational Navigation;
- Traffic and Transport;
- Socio-economic;
- Landscape and Visual;
- Aviation; and
- Wind Turbine Impacts.

3.23 The Commission is satisfied that the list of topics proposed for the EIA in the Scoping Report at paragraph 6.13.1 broadly encompasses all those matters identified in Schedule 4, Part 1, paragraph 19 of the EIA Regs. Although the applicant's attention is drawn to the comments regarding emissions and dust in paragraph 3.15 above.

3.24 The Commission recommends that an assessment of the environmental effects associated with the generation and elimination of waste be added as a topic to the ES in accordance with Schedule 4, Part 1, paragraph 20 of the EIA Regs. This assessment should clarify the environmental effects of all wastes to be processed and removed from the site and identify impacts associated with relevant traffic movements and routes.

3.25 The ES will need to identify and describe in detail the control processes and mitigation procedures for storing and transporting residual waste off site, and indeed if any pre-treatment is expected prior to being exported off site. All waste types should be quantified and classified.

3.26 Each of the specialist topics are considered in turn below. It should be noted that the general points made above and elsewhere in this Opinion are not repeated under each of the specialist topics. However the applicant should ensure that such issues are addressed fully before the ES is submitted to the Commission. Consideration should also be given to the scoping responses, copies of which are provided in Appendix 2.

Hydrodynamic and Sedimentary Regime (section 6.2 of the Scoping Report)

- 3.27 The Commission recommends that scour, sediment disturbance and potential mobilisation of contamination in the estuary should all be carefully assessed in the ES in view of the importance of the Humber Estuary.
- 3.28 The area behind the proposed quay frontage is proposed to be filled with large quantities of geological or estuarine materials. The Commission draws the attention of the applicant to the comments from EN regarding the Humber maintenance dredge protocol and the need to assess any loss of sediment from the Humber system.
- 3.29 The ES should include modelling to assess the thermal plume and impacts of abstraction. Other users in the area should be taken into account.
- 3.30 The section should be cross referenced as appropriate to other specialist sections, notably water quality, ecology and nature conservation, commercial fisheries, drainage and flood risk and marine archaeology. Sand and gravel extraction has can effect benthic communities and wider marine ecosystems in particular.
- 3.31 The Commission recommends consultation with other users in the area in order to address the likely impacts on the existing extraction and discharge of cooling water in combination with the proposed new intake/outfall pipe. Potential impacts associated with fish impingement should be assessed, with cross reference to the ecology section as appropriate.

Water Quality (section 6.3 of the Scoping Report)

- 3.32 The ES should consider the effects of port dredging on aquatic ecology during operation and not just during construction i.e. mobilisation of sediment effecting water quality.
- 3.33 The assessment should include consideration and modelling for thermal plumes and changes to water quality if either 'once through' or 'hybrid solutions' are adopted. Modelling should assess the impacts upon protected species, designated sites and their interest features.
- 3.34 Water supply requirements should be addressed as should the disposal and flow rates of foul water. The potential impacts of increased foul water flows should be addressed.

Ecology and Nature Conservation (section 6.4 of the Scoping Report)

- 3.35 There are a number of International, European, UK and local conservation designations in the vicinity. The ES should give full consideration to the potential impacts of the proposed development and mitigation or compensatory measures for all protected sites and species. Non-statutory local sites should also be considered in the assessment. The Commission welcomes the consultation with a range of stakeholders.
- 3.36 All surveys should be thorough, up to date and take account of other development proposed in the vicinity. The Commission welcomes that the Phase 1 habitat survey has been updated in 2010. The scope of all further habitat and species surveys should be conducted in accordance with best practice and agreed with relevant consultees. Survey methodology, including study areas, should be clearly defined and justified in the ES. The applicant's attention is drawn to the comments of Natural England and North Lincolnshire Council, which includes information on likely impacts and guidance on requirements for ecological information.
- 3.37 The Commission recommends the need to consider cumulative and combined impacts and advises this is particularly relevant in terms of assessing the impacts on ecology. Appropriate cross-reference should be made to other specialist reports notably noise and vibration; air quality; hydrodynamic and sedimentary regime; landscape and visual and water quality sections of the ES.
- 3.38 The Commission agrees that the coastal bird surveys carried out from May 2006 until February 2007 should be updated. The ES should consider all birds of conservation concern. Bird disturbance and displacement effects should be considered in terms of North Killingholme Haven Pits SSSI and Rosper Road Pools Nature Reserve as well as the Humber Estuary itself. The Commission would expect the ES to include a consideration of the potential effects on birds from the two proposed operational wind turbines on-site and the proposed helipad including the route onto site.
- 3.39 The scoping report does not cover surveys and assessment for amphibians, vascular plants, important hedgerows and trees. The effect on invertebrates should not be limited to the potential impacts of noise and vibration. The effect on marine mammals should not be limited to the potential impacts of discharges. The effects on migratory lamprey should not be limited to the potential impacts of dredging and disposal. The Commission advises that these matters should be addressed in the ES or a full explanation provided as to why this was not considered appropriate.

- 3.40 The ES should consider the intertidal and subtidal habitat and the impacts of dredging and sediment type and quality. The impacts of the intake of cooling water and the release of warm water to the estuary should be assessed. The implications of potential changes to the physical, chemical, biological parameters and heavy metal load of the Estuary should be assessed fully.
- 3.41 Account should be taken of any proposed sea defences for the development and any other proposed in the vicinity which may impact on the intertidal and subtidal environment.
- 3.42 The Commission notes the identification of the potential impact on fish and sea lamprey from entrainment and impingement caused by the cooling water intake and outfall pipeline (Table 6.5). The applicant is referred to NE's comments on the use of fine meshes which are not suitable for use in the Humber Estuary to prevent fish impingement due to the Humber's extremely high sediment load (see Appendix 2).
- 3.43 The Commission recommends that the impacts on protected fish species is fully assessed and appropriate mitigation provided. The Commission draws attention in particular, but not exclusively, to the effects on eels, shad and migrating river and sea lamprey. The applicant's attention is drawn to the new Eels (England and Wales) Regulations 2009 (No.3344) which provides increased protection for this species.
- 3.44 The Commission notes the reference to potential noise impacts on fish and shellfish (Table 6.6 of the Scoping Report). The Commission agrees with the need to consider noise and also recommends the consideration of vibration impacts and refers the Applicant to the comments by the MMO regarding assessment of noise and vibration impacts from piling (see Appendix 2). Consideration should also be given to monitoring any potential impacts which may arise from piling during the construction phase.
- 3.45 It is recommended that the ES provides details of any proposed ecological mitigation, in addition to compensatory measures, and includes monitoring plans. All plans should incorporate relevant sensitive habitats and species affected during construction, operation and decommissioning and should be developed in conjunction with plans to mitigate landscape and visual impacts.
- 3.46 The proposed plant could obtain its fuel from biomass imported from other parts of the world. The UK is vulnerable to pests and diseases imported from other parts of the world. The Commission advises that consideration should be given to the potential impact of pests and diseases being introduced to the UK and the measures that would be taken to ensure such pests and diseases are not introduced, including monitoring and contingency planning.

- 3.47 The Commission notes the possible need for an Appropriate Assessment in view of the development site's location in relation to the Humber Estuary (see Section 4 of this Opinion) and the potential impacts on the estuarine structure and function.
- 3.48 The applicant's attention is drawn to the correct reference to Cefas as the Centre for Environment, Fisheries and Aquaculture Science (paragraph 6.4.12 of the Scoping Report).

Commercial Fisheries (section 6.5 of the Scoping Report)

- 3.49 The Commission welcomes the proposed consultation with the local fishing industry.
- 3.50 The ES should consider the effects of port dredging on aquatic ecology during operation and not just during construction i.e. mobilisation of sediment effecting water quality.
- 3.51 Due to the operation of both commercial and recreational fishing within the Humber Estuary, cross-reference should also be made to the proposed socio-economics section of the ES (section 20).

Drainage and Flood Risk (section 6.6 of the Scoping Report)

- 3.52 The Commission welcomes the preparation of a Flood Risk Assessment (paragraph 6.6.20 of the Scoping Report). This should be prepared in accordance with the requirements of PPS25 and in consultation with the EA.
- 3.53 This is a low lying, flat area and the drainage and surface water impacts should be assessed. The Commission advises that the assessment should take into account the latest climate change projections for the UK as detailed at UCCP09 at <http://ukclimatechange-projections-ui.defra.gov.uk>.
- 3.54 The FRA should cover fluvial flood risks as well as projected tidal risks under present and projected climate change scenarios.
- 3.55 The ES needs to consider the potential impacts the proposals could have on the EA's flood defences in this location and other organisations that own and maintain flood management assets in the area.

Noise and Vibration (section 6.7 of the Scoping Report)

- 3.56 Reference is made to vibration in the title of this topic but no detail is provided in the description of any proposed study, methodology or impacts. The noise and vibration assessment should consider the

impacts during construction, operation and decommissioning, including piling in relation to birds, fish and marine mammals.

- 3.57 The Commission recommends that the methodology and choice of noise receptors should be agreed with the relevant Environmental Health Department of the Council and with the EA. Noise and vibration impacts on people should be specifically addressed, and particularly any potential noise disturbance at night and other unsocial times such as weekends and public holidays.
- 3.58 Information should be provided on the types of vehicles and also on the type of plant to be used during the construction phase. All operational, noise sources should be identified along with appropriate measures to mitigate noise nuisance.
- 3.59 The assessment should take account of the traffic impacts and consider noise and vibration impacts along access routes, especially during the construction phase. The interrelationship of noise and vibration impacts with the ecological impacts, both terrestrial and marine, should also be considered.
- 3.60 Noise and vibration levels along the foreshore potentially affecting birds and fish should be also be addressed.

Air Quality (section 6.8 of the Scoping Report)

- 3.61 The physical scope of the assessment area should be discussed and agreed with the relevant local authorities. Air quality and dust levels should be considered not only on site but also off site, during construction and operation, including along access roads and local footpaths as well as the Humber Estuary. Although the site is not designated as an Air Quality Management Area (AQMA), there is one at nearby Immingham and also at Scunthorpe. However, the proposed site lies within a sensitive area that includes national and European-designated wildlife sites. The impacts on the Humber Estuary should be carefully assessed. There is the need to consider potential related effects due to an increase in airborne pollution especially during construction.
- 3.62 The Commission does not agree with the proposal within the Scoping Report at paragraph 6.8.45 to limit the air quality impact assessment during operation to the emissions from the biomass plant. The assessment should take account of all emissions from the proposed development itself as well as emissions from shipping, road and rail movements from and to site. The traffic impacts and the interrelationship with the ecological impacts, both terrestrial and marine, should also be considered.

- 3.63 The implications of stack height and dispersion of the discharge needs to be clearly explained. The Commission recommends that dispersion modelling considers a range of possibilities and seeks to ensure that the worst case is assessed, for example the worst case may occur as a short term impact or result from change in fuel type.
- 3.64 In addition to the nearest residential communities identified in the Scoping Report (paragraph 6.8.2) communities along the north bank of the Humber Estuary should also be considered and included in the dispersion modelling.
- 3.65 The ES will need to describe the final abatement technologies chosen to mitigate against the potential environmental effects and provide the justification for the applicant's choices. Storage of abatement materials must adhere to relevant HSE Regulations.
- 3.66 Consideration should be given to monitoring dust complaints.

Light (section 6.9 of the Scoping Report)

- 3.67 The ES should include an assessment of lighting from all the tall structures on the site. This will include the stack, the operational wind farms and any materials awaiting transportation.
- 3.68 The Commission recommends that appropriate cross reference is made in the ES to other specialist sections. This could include ecology and nature conservation and landscape and visual. The ES should not be a series of stand alone unrelated reports.

Geology and Ground Conditions (section 6.10 of the Scoping Report)

- 3.69 The ES should include an assessment of contaminated land issues including sources and pathways of contaminants to designated sites. Detailed site investigations should be agreed with the relevant statutory bodies and a suitable remediation strategy proposed.
- 3.70 The Commission draws the attention of the applicant to the comments from the Coal Authority, in particular that the site of the proposed quay lies within an area in which the Coal Authority has granted a Conditional Licence for Underground Coal Gasification (UCG) operations. Therefore, the ES should address in particular the potential impacts of future UCG operations on the quay, especially subsidence.

Marine Archaeology and Heritage (section 6.11 of the Scoping Report)

- 3.71 The topic area set out in the Scoping Report relates to 'Marine Archaeology and Heritage', whilst the indicative structure of the ES (see Table 8.1 of the Scoping Report) describes only 'Marine

Archaeology'. The scope of Section 16 of the proposed ES should be widened to consider the historic environment.

- 3.72 Justification for the choice of the study area selected has not been clearly identified in the Scoping Report. The extent of the study area should be agreed with English Heritage.
- 3.73 The Commission notes that a chartered wreck is 'very close' to the site of the proposed quay which may be disturbed during the associated dredging works (paragraph 6.11.3 of the Scoping Report). The applicant is referred to comments from Associated British Ports (responding in their capacity as harbour authority) which identifies this wreck at a chartered depth of 8.8m which would appear to be within the area identified as needing to accommodate vessels of 10m draft and 13.5m draft. The ES should clearly identify any wrecks which may be affected during construction, operation and decommissioning of the site and describe the impact and mitigation measures proposed where appropriate.
- 3.74 Consideration should be given to the recording and preservation of archaeological remains which may be buried by the quay development or removed during construction and maintenance dredging. Any proposed increase in dredging area to accommodate the movement of large vessels will need to be assessed in the ES.
- 3.75 The Applicant's attention is drawn to the comments of English Heritage and the clarification that the local planning authority is only responsible for archaeological mitigation strategy to the Low Water Mark, below this English Heritage is the body responsible for agreeing the mitigation strategy (see Appendix 2).
- 3.76 The assessment should consider the potential impacts on the marine archaeology arising from changes in the hydrodynamic and sedimentary regime and appropriate cross-reference should be made to Section 7 of the proposed ES (hydrodynamic and sedimentary regime).
- 3.77 Consideration should be give as to how any impacts will be monitored through the construction, operation and decommissioning phase.

Terrestrial Archaeology and Heritage (section 6.12 of the Scoping Report)

- 3.78 The Commission recommends consultation with English Heritage, the local authority's archaeologists and any local historical societies or archaeological trusts.
- 3.79 The topic area set out the Scoping Report refers to 'Terrestrial Archaeology and Heritage', whilst the indicative structure of the ES (see Table 8.1 of the Scoping Report) describes only 'Terrestrial

Archaeology'. The scope of Section 17 of the proposed ES should be widened to consider terrestrial archaeology and the historic environment.

- 3.80 The setting of cultural heritage resources could be affected; this includes historic buildings, historic landscapes and archaeological sites and the Commission considers that these should be addressed in the ES. Cross-reference should be made to the Landscape and Visual section of the proposed ES. The potential impacts should be assessed in relation to both the north and south banks of the Humber.
- 3.81 Justification should be provided in the ES for the choice of the study area selected, which has not been clearly identified in the Scoping Report. The Applicant's attention is drawn to English Heritage's comments on the physical extent of the survey area (see Appendix 2).
- 3.82 The Commission notes that Grade II Listed Buildings are of national importance (see English Heritage's comments at Appendix 2).
- 3.83 Consideration should be given as to how any impacts will be monitored through the construction, operation and decommissioning phase.

Commercial and Recreational Navigation (section 6.13 of the Scoping Report)

- 3.84 The ES should consider the effects of port dredging on aquatic ecology during operation and not just during construction i.e. mobilisation of sediment affecting water quality.
- 3.85 The Commission refers the applicant to the detailed comments on navigation studies made by Trinity House.
- 3.86 The Commission notes the reference to the Humber being one of the busiest estuaries in the UK (see paragraph 6.13.2 of the Scoping Report) and considers that the assessment should consider the potential impacts on existing facilities and users of the estuary.

Traffic and Transport (section 6.14 of the Scoping Report)

- 3.87 The ES will need to describe in detail the baseline condition of the local transport infrastructure and any improvement works necessary to provide safe and secure access to the facility.
- 3.88 The focus of the transport section is on road traffic. The Commission recommends that the ES should clearly explain the assumptions regarding the use of ship, road and rail transport. The Commission recommends that realistic options for use of rail, if any, and their impacts are considered. The baseline for the ES should set out the current level of rail activity associated with the existing on site operations and assess the impact of increased rail activities on the rail

spur within the site boundary. Any modifications required to the existing infrastructure should be described and suitably assessed. Additional works may need to be carried out to prevent grounding on the relevant level crossing for heavy construction traffic. This should be considered by the Transport Assessment. The applicant is advised to consult with Network Rail.

- 3.89 The report does not explain how many ships will be required and does not set out the current baseline conditions with regard to shipping and navigation. The assessment methodology proposed does not take into account impacts associated with an increase in shipping. In particular the assessment will need to consider the environmental impacts this may have on any of the existing port operations.
- 3.90 The A160 is of particular concern regarding both air quality and road safety and should be thoroughly assessed along with other major roads in the area, including the A180.
- 3.91 Appropriate consultation should be undertaken with the relevant Highway Authority to obtain traffic data and traffic count information. Survey dates need to be stated to ensure they were carried out within a suitable timeframe.
- 3.92 The Commission refers the applicant to the comments from Network Rail and the Highways Agency.
- 3.93 The Commission recommends that public rights of way (PROW) should be considered and any impacts identified and assessed.
- 3.94 The uncertainty of the location of the helipad will affect the assessment of its potential impacts. The helipad's impacts will need to be fully assessed. Appropriate cross-reference should be made to the aviation section.
- 3.95 Appropriate mitigation measures, such as a travel plan must be fully considered and assessed to minimise transport impacts.

Socio - Economic (section 6.15 of the Scoping Report)

- 3.96 The Commission recommends that the assessment should consider the types of jobs generated and this should be considered in the context of the available workforce in the area, this applies equally to the construction and operational phases.
- 3.97 The Commission recommends that the assessment criteria should be locationally specific and consider the potential significance of the impacts of the proposal within the local and regional context.

- 3.98 Primary and secondary impacts should be considered. For example, the effect on local services should be considered, including the demand for additional services such as health services and schools.
- 3.99 Impacts on the local community should be considered. This should include the impact on the housing market, the impact on local culture and community facilities used for recreation, as well as the impact of an additional workforce.

Landscape and Visual (section 6.16 of the Scoping Report)

- 3.100 The extent of the visual impact assessment should be agreed with the relevant local authorities. The Commission refers the applicant to the guidelines on the appropriate methodology set out by North Lincolnshire Council and by Natural England.
- 3.101 The Scoping Report acknowledges the flat topography (see paragraph 6.16.5). Under these conditions the Commission recommends consultation and agreement with the relevant local authorities regarding likely the physical scope of the assessment and the identification of key viewpoints. Reference should be made in this regard to the comments from English Heritage. Cross reference should be made to the archaeology and heritage sections of the ES (both on and offshore) and to the ecology and nature conservation section. The opportunity for combined landscape and ecological mitigation should be investigated.
- 3.102 The proposals will be for large structures. The Commission requests that careful consideration should be given to the form, design, siting and use of materials and colours in terms of minimising the adverse visual impact of these structures. Views from across the estuary should be included as well as night time views. The visual impact assessment should consider the impacts of any lighting that is proposed and its proposed hours of use.
- 3.103 The visual impact of the stack and associated plumes, as well as the wind turbines will need to be considered. The visual envelope should seek to ensure that all potential sensitive receptors are assessed and viewpoints are agreed with the relevant local authorities.
- 3.104 The potential impacts on the historic landscape should be addressed either in this section or in the archaeology and heritage sections. The Commission refers the applicant to the comments from North Lincolnshire Council regarding their work on an Historic Landscape Characterisation (HLC).
- 3.105 The use of photomontages and wireframe views would assist in the understanding of the proposals and the assessment.

Aviation (section 6.17 of the Scoping Report)

- 3.106 The Commission notes the reference to Humberside Airport approximately 10km to the south of the proposed development site. The Commission notes that the airspace over the proposed application site is currently Class G airspace (uncontrolled airspace) (see Civil Aviation Authority (CAA) response Appendix 2). The Commission welcomes the intention to consult the Airport and refers the Applicant to the CAA comments regarding the proximity of the development to the Airport including the intention to provide a helicopter landing site at the proposed development (see Appendix 2).
- 3.107 The Commission refers the applicant to the detailed comments from the CAA, including the need to consider visual impacts. Therefore the section in the ES should be cross referenced to the landscape and visual section.
- 3.108 The Commission notes the comments on the potential interference with military and civil aviation operations primarily through effects on radar systems and height of turbines and stack from the biomass plant (paragraph 6.17.6).
- 3.109 The extent of the study area should be agreed with the CAA, HIA, NATS and the MoD. Whilst the proposed height of the stack from the biomass plant and the wind turbines has not been identified in the Scoping Report, the CCA comments have assumed that based on a stack height of between 50-100m the stack would not constitute an aviation en-route obstruction. This should be confirmed in the ES. The Applicant is referred to the comments of the CAA regarding the preparation of an aviation pre-planning pro-forma (see Appendix 2).
- 3.110 Appropriate cross-reference should be made to the proposed Light section of the ES and consideration should be given to the need and assessment of aviation warning lighting on both the stack and wind turbines. The CAA has provided some helpful advice on lighting (see Appendix 2).
- 3.111 Early consultation with the CAA, NATs and MoD is advised by the CAA and the Commission recommends this offer is taken up to consider the likely impacts on airspace over the proposal site associated with the proposed helicopter landing site. The Commission recommends consultation with the local emergency services air support units.

Wind Turbine Impacts (section 6.18 of the Scoping Report)

- 3.112 The Commission refers the applicant to the helpful comments from the CAA regarding the proposed wind turbine development and the assessments required.

- 3.113 The Commission notes the reference to potential communication impacts due to interference or distortion to the microwave links caused by the presence of the turbines and stack (paragraph 6.18.6 of the Scoping Report). However, it is unclear in the Scoping Report whether the potential impacts caused by obstruction as a result of the stack will be assessed. This should be clarified and the scope of the microwaves assessment should be widened to consider the stack.
- 3.114 The Applicant is referred to the Commission's comments at Section 4 of this Opinion with regard to the production of a health Impact Assessment (HIA) to cover health and safety considerations relating to ice throw and shadow flicker ice-throw.

4.0 OTHER INFORMATION

Appropriate Assessment

4.1 The applicant's attention is drawn to the (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP) and the need to include information identifying European sites to which the Habitats Regulations applies or any Ramsar site which may be affected by a proposal. The information to be submitted should be sufficient for the Commission to make an appropriate assessment of the implications for the site if required by regulation 48(1).

4.2 The report to be submitted under Reg 5(2)(g) of the APFP with the application must deal with two issues. The first is to enable a formal assessment of whether there is likely significant effect and the second, should it be required, is to enable the carrying out of an appropriate assessment. The applicant's attention is drawn to the fact that it is for the applicant to prepare the necessary information to accompany its DCO application. In particular IPC Guidance Note 2, at Paragraph 29 states:

'The IPC, or the Secretary of State in appropriate cases, must consider whether a project is likely to have a significant effect on designated European sites and if that is the case, it will require sufficient information within the application to enable the IPC or Secretary of State to carry out an appropriate assessment under the Habitats Regulations¹. The report to be submitted under Reg 5(2)(g) of the APFP with the application must deal with two issues. The first is to enable a formal assessment of whether there is a likely significant effect and the second, should it be required, is to enable the carrying out of an appropriate assessment. Determinations on both matters will be undertaken during the examination process.'

4.3 When considering aspects of the environment likely to be affected by the development; including flora, fauna, soil, water, air and the inter relationship between these, consideration should be given to the designated sites in the vicinity of the proposed development, including the Humber Estuary Ramsar, SPA, SAC, and SSSI, and Kirmington Pit SSSI and Kelsey Hill Gravel Pits SSSI.

4.4 Further information with regard to the Habitats Assessment process is located within the pre-application IPC Guidance Note 2 available via the Commission's website.

Health Impact Assessment

- 4.5 The Commission agrees with the Health Protection Agency that the proposal could have potential health impacts. The Commission considers that the EIA should assess the potential health impacts arising as a result of the proposals. In particular the impact on health of construction, emissions to air, emissions to water and emissions to ground including contaminated land should be considered. The ES should provide an analysis of these impacts.
- 4.6 The Commission considers that it would be a matter for the applicant to decide whether or not to submit a stand-alone Health Impact Assessment (HIA) and that an applicant should have particular regard to the responses received from the relevant consultees regarding health. The methodology for the HIA, if prepared, should be agreed with the relevant statutory consultees and take into account mitigation measures for acute risks.

Other Regulatory Regimes

- 4.7 The Commission recommends that the applicant should state clearly what regulatory areas are addressed in the ES. The applicant should ensure that all relevant authorisations, licences, permits and consents that are necessary to enable operations to proceed are described in the ES. Also it should be clear that any likely significant effects of the proposed development which may be regulated by other statutory regimes have been properly taken into account in the environmental impact assessment (EIA).
- 4.8 Information submitted as part of the ES can aid both the development consent application and the Environmental Permit application to run in parallel. In order to gain an Environmental Permit, from the Environment Agency, it will be necessary for the applicant to demonstrate that the Best Available Technique (BAT) is being used for plant operations and the applicant's attention is drawn to the Agency's comments on this issue, therefore.
- 4.9 It will not necessarily follow that the granting of consent under one regime will ensure consent under another regime. For those consents not capable of being included in an application for consent under the Planning Act 2008, the applicant should note that a level of assurance from the relevant regulatory authorities that the design or plan is acceptable and likely to be approved by them will be required by the Commission before a recommendation or decision on any application is made. This is in accordance with the policy guidance in the Revised Draft Overarching National Policy Statement for Energy (EN-1). Applicants are encouraged to make early contact with other regulators. Information from applicants about progress in obtaining other permits,

licences or other consents and confirmation that there is no obvious reason why they will not subsequently be granted will be helpful in supporting an application for development consent to the Commission.

Climate Change National Policy Statements and EIA Regs

Revised Draft Overarching National Policy Statement for Energy (NPS EN-1) and the Revised Draft National Policy Statement for Renewable Energy Infrastructure (NPS EN-3) (October 2010)

4.10 The Revised Draft Overarching National Policy Statement (NPS) for Energy (EN-1) and the Revised Draft National Policy Statement for Renewable Energy Infrastructure (EN-3) sets out the Government's policy for delivery of major energy infrastructure and provides a framework for decisions to be taken by the Commission.

4.11 When deciding an application the Commission is bound to have regard to the NPSs, which establish the policy framework within which it operates. The NPSs remain in draft and have been subject to scrutiny and debate and further consultation. The weight to be placed upon the NPSs before they are designated will depend *inter alia* upon the stage reached in the process towards designation and will be a matter to be addressed by the Commission when the application is considered.

4.12 The Revised Draft Overarching National Policy Statement for Energy (EN-1) states at paragraph 2.2.4:

'Not all aspects of Government energy and climate change policy will be relevant to IPC decisions or planning decisions by local authorities and the planning system is only one of a number of vehicles that helps to deliver Government energy and climate change policy.'

4.13 It continues at paragraph 5.2.2:

'The IPC does not, therefore need to assess individual applications in terms of carbon emissions against carbon budget...'

4.14 Paragraph 17(c) of Schedule 4 of the EIA Regulations includes a number of factors some of which might be anticipated to have an impact upon climate change ('*expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc) resulting from the operation of the proposed development*'¹).

4.15 Paragraph 19 of Schedule 4 of the EIA Regulations requires the Environmental Statement to include "A description of the aspects of the

¹ Para 17(c) Sch 4

environment likely to be significantly affected by the development, including in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.”

- 4.16 Part 2 of the schedule requires the applicant to provide information that could relate to the consideration of climate change: ‘*The data required to identify and assess the main effects which the development is likely to have on the environment*’².
- 4.17 The Commission requires the applicant to address in the EIA the effects of climate change on the proposals (adaptation) and how the proposals have provided the means to reduce its impact on climate change (mitigation), for example through amelioration of greenhouse gas emissions and this should be set out in the ES.
- 4.18 The Commission considers that the ES will need to set out the parameters for climate change assessment and address the cumulative effect on local and regional environmental control limits (i.e. Local Authorities Air Quality Management Areas). This information should be dealt with in the ES under a number of specialist topics and the applicant may care to consider whether it would be helpful if this information was also collated into one section in order to better understand how the cumulative impacts have been addressed.
- 4.19 The ES should set out clearly the way in which climate change and the potential significant effects relating to the development have been addressed.

Applicant’s Consultation

- 4.20 It is recommended that the applicant provides preliminary environmental information³ to the local authority when presenting it with the draft Statement of Community Consultation (SoCC) for comment under s47 of the Planning Act 2008.
- 4.21 Consultation with the local community must be carried out in accordance with the SoCC which will state how the applicant intends to consult on the preliminary environmental information. Where consultation responses have resulted in important changes affecting the EIA, such comments could usefully be reported and considered in the ES. This reporting could also assist the applicant in the preparation of its consultation report required to be submitted with the application for development consent.

² Para 26 Sch 4

³ For an explanation see under ‘Interpretation’ in the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 SI2263

APPENDIX 1

CONSULTATION BODIES

APPENDIX 1

LIST OF CONSULTATION BODIES FORMALLY CONSULTED DURING THE SCOPING EXERCISE

CONSULTEE	ORGANISATION
SCHEDULE 1 LIST OF CONSULTEES	
The Relevant Responsible Planning Body ¹	Local Government Yorkshire and Humber
The Health and Safety Executive	Health and Safety Executive
The Relevant Strategic Health Authority	NHS Yorkshire and the Humber
Natural England	Natural England Natural England Yorkshire and the Humber
The Historic Buildings and Monuments Commission for England	English Heritage Yorkshire and the Humber English Heritage
The Relevant Fire and Rescue Authority	Humberside Fire and Rescue North Lincolnshire CPU
The Relevant Police Authority	Humberside Police
The Relevant Parish Council(s) or Relevant Community Council	Preston Parish Council Hedon Town Council Thorngumbald Parish Council Keyingham Parish Council Ottringham Parish Council Patrington Parish Council Welwick Parish Council Paull Parish Council Sunk Island Parish Council North Killingholme Parish Council

	South Killingholme Parish Council East Halton Parish Council Ulceby Parish Council Habrough Parish Council Brocklesby Parish Meeting Immingham Town Council
The Environment Agency	The Environment Agency The Environment Agency Yorkshire and the Humber
The Commission for Architecture and The Built Environment	CABE Design Review
The Relevant Regional Development Agency	Yorkshire Forward
The Equality and Human Rights Commission	Equality and Human Rights Commission
The Commission for Sustainable Development	Sustainable Development Commission
The Homes and Communities Agency	The Homes and Communities Agency
The Joint Nature Conservation Committee	Joint Nature Conservation Committee The Joint Nature Conservation Committee (Offshore Wind Farms)
The Commission for Rural Communities	The Commission for Rural Communities
The Maritime and Coastguard Agency	The Maritime and Coastguard Agency – Navigation Specialist Support
The Marine Management Organisation (English Waters) [The Marine and Fisheries Agencies ²]	Marine Management Organisation Marine Management Organisation Grimsby
The Civil Aviation Authority	Directorate or Airspace Policy
The Highways Agency	The Highways Agency

The Relevant Highways Authority	East Riding Council Strategic Development Control North Lincolnshire Council
The Rail Passengers Council	Rail Passenger Council
The Disabled Persons Transport Advisory Committee	DPTAC
The Coal Authority	The Coal Authority
The Office Of Rail Regulation	Office of Rail Regulation
Approved Operator	Network Rail Infrastructure Ltd
Approved Operator	Network Rail (CTRL) Ltd
The Gas and Electricity Markets Authority	OFGEM
The Water Services Regulation Authority	OFWAT
The Relevant Waste Regulation Authority	East Riding Council North Lincolnshire Council
The relevant Internal Drainage Board	Northeast Lindsey IDB Preston IDB, Thorngumbald IDB and Keyingham Level IDB
The British Waterways Board	The British Waterways Board
Trinity House	Trinity House
The Health Protection Agency	The Health Protection Agency
The Relevant Local Resilience forum	Humber Emergency Planning Service
The Crown Estate Commissioners	The Crown Estate Commissioners
The Forestry Commission	Yorkshire and the Humber Conservancy Office

RELEVANT STATUTORY UNDERTAKERS	
Health Bodies under s.16 of the Acquisition of Land Act 1981	NHS Yorkshire and the Humber Humber NHS Foundation Trust North Lincolnshire and Goole Hospitals Yorkshire Ambulance Service NHS Trust Rotherham Doncaster and South Humber Mental Health NHS Foundation Trust NHS Hull NHS East Riding of Yorkshire NHS North Lincolnshire
Railways	BRB Residuary Limited
Dock	Port of Hull
Dock	Grimsby Port
Dock	ABP Humber
Dock	Humber Sea Terminal Limited
Licence Holder (Chapter 1 Of Part 1 Of Transport Act 2000)	NATS En Route plc
Universal Service Provider	Royal Mail Group
Water and Sewage Undertakers	Anglian Water Yorkshire Water
Public Gas Transporter	British Gas Pipelines Limited Energetics Electricity Limited Energetics Gas Limited ES Pipelines Ltd ESP Connections Ltd ESP Networks Ltd

	<p>Fulcrum Pipelines Limited Fulcrum GTC Pipelines Limited Energy House Independent Pipelines Limited Intoto Utilities Limited National Grid Gas Plc (NTS) National Grid Gas Plc (RDN) Northern Gas Networks Limited Quadrant Pipelines Limited Scotland Gas Networks Plc Southern Gas Networks Plc SP Gas Limited SSE Pipelines Ltd The Gas Transportation Company Limited Energy House Wales and West Utilities Limited Utility Grid Installations Limited Wales and West Utilities Ltd</p>
<p>Electricity Distributors With CPO Powers</p>	<p>E.ON UK Plc</p>
<p>Electricity Transmitters With CPO Powers</p>	<p>ECG (Distribution) Limited EDF Energy (IDNO) Limited Central Networks East Plc Energetics Electricity Limited ESP Electricity Limited Independent Power Networks Limited The Electricity Network Company Limited Yorkshire Electricity Distribution Plc National Grid</p>

LOCAL AUTHORITY (S.43)	
	The Broads Authority East Riding of Yorkshire Council North Lincolnshire Council Bassetlaw District Council West Lindsey District Council North East Lincolnshire Council Doncaster Metropolitan Borough Council City of York Council Ryedale District Council Scarborough Borough Council Hull City Council Lincolnshire County Council Nottinghamshire County Council North Yorkshire County Council
Consultation With Applicant	Able UK

¹ The Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations was amended by The Local Democracy, Economic Development and Construction Act 2009 (Consequential Amendments) (England) Order 2010. Regional planning bodies were replaced by responsible regional authorities as consultees in schedule 1. Responsible regional authorities are defined as follows:

(1) References in this Part to “responsible regional authorities”, in relation to a region, are to the following (acting jointly)—

- (a) the regional development agency for the region, and
- (b) the Leaders’ Board for the region.

(2) But if during any period after the coming into force of this section there is no Leaders’ Board for a region, the references in this Part to “responsible regional authorities” are in relation to that period and region to be read as references to the regional development agency for the region. (s72 of The Local Democracy, Economic Development and Construction Act 2009).

Please see table for Regional Development Agencies consulted.

² The Marine and Coastal Access Act 2009 s23(2) amends the Planning Act 2008 s42.

APPENDIX 2

CONSULTATION REPLIES

APPENDIX 2

LIST OF BODIES WHO REPLIED WITHIN THE STATUTORY PERIOD

ABP Hull and Grimsby
ABP Humber
Anglian Water
Civil Aviation Authority
E S Pipelines
East Halton Parish Council
East Riding Council
English Heritage
E.ON UK Plc
Fulcrum Pipelines Limited
Health and Safety Executive
Health Protection Agency
Hedon Town Council
Highways Agency
Hull City Council
Humber Sea Terminal Limited
Joint Nature Conservation Committee
Maritime and Coastguard Agency
Marine Management Organisation
Natural England
Network Rail
NHS Hull

North Lincolnshire Council including Highways Authority and North Killingholme Parish Council
Scottish and Southern Energy Pipelines
The Coal Authority
Trinity House
Yorkshire Forward
Yorkshire Water



The Infrastructure Planning Commission
c/o Mr Mark Wilson
Temple Quay House
Temple Quay
Bristol
BS1 6BN

Our reference BJG/0956072/O10344152/SAMF

Your reference 100917/ENO100300/252740

15 October 2010

Dear Sir

**Proposed Killingholme Port and Biomass Plant - Able UK Limited (the Applicant)
Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 SI2263**

We refer to your letter of 17 September 2010 addressed to the Port Directors of the Port of Hull, Matt Jukes and the Port of Grimsby & Immingham, John Fitzgerald. We are solicitors instructed by Associated British Ports, the owner and operator of those ports and our client is grateful for the opportunity to be able to comment on the scoping report prepared by Able UK in relation to the above proposed development.

Our client responded to Able's informal pre-application consultation in August of this year and we do not intend, therefore, simply to repeat the comments that we have already made. That said, we do enclose for your information, a copy of that letter dated 2 August, which may be of assistance in the context of the current scoping exercise.

As far as the September scoping report submitted by Able is concerned, we are conscious of your own guidance provided in Advice Note Seven "*Identifying the Right Environmental Impacts*", to which reference is made in Able's scoping report and we are happy, subject to the comments below, to leave to you the determination of the question as to whether the report does actually satisfy the tests laid down in that guidance, and indeed the EIA regulations and Directive.

We propose instead to concentrate on just one or two principal issues of concern that arise from the scoping report as submitted:-

1. Soundness of the proposal in law

- 1.1 We should state at the outset that we believe the IPC may find itself in some difficulty in terms of legal compliance if it accepts the scoping report for the Killingholme proposal as currently drafted and adopts a scoping opinion. Indeed, we would query whether, in fact and in law, the IPC is even in a position to consider an application for the proposed development as currently formulated by the applicant in its scoping report.
- 1.2 We note from your website that you are expecting the submission of the actual application in March 2011. You will be aware, however, from paragraph 2.1.6 of the applicants' scoping report that they already have another very substantial planning application awaiting determination by North Lincolnshire Council in relation to land adjacent to the site the subject of this scoping report.

One London Wall London EC2Y 5EB DX 466 London Chancery Lane WC2 T +44 (0)207 105 7000 F +44 (0)207 105 7005

A list of partners and their professional qualifications is available for inspection at our offices. Regulated by the Solicitors Regulation Authority, SRA number 58540

- 1.3 That planning application (reference number PA/2009/0600) is for the erection of buildings and use of land for purposes within use classes A3, C1, B1, B2 and B8 for port related storage and associated service facilities on 380 hectares of land. We attach for your assistance, two letters of objection dated the 7 May 2010 and 13 July 2010 which we sent to North Lincolnshire Council objecting to those proposal on behalf of ABP. As you will see from the letters, we are of the view that the Local Planning Authority is not in a position to determine the application. We draw your attention in particular to paragraphs 19 – 22 of our letter of 7 May 2010. In brief, however, our contention is that both the current application and the pending application the subject of the scoping report should be made the subject of an in-combination environmental impact assessment and should also jointly be made the subject of an appropriate assessment under the Conservation of Habitats and Species Regulations 2010. Indeed, this view is supported by the Royal Society for the Protection of Birds (RSPB) and we draw your attention to their letter of 19 February 2010 (copy enclosed).
- 1.4 It is our client's contention, therefore, that the planning application currently before North Lincolnshire Council and the proposals the subject of this scoping report are inextricably linked. In our view, these proposals should not be allowed to proceed on a piecemeal basis in that quite simply, by so doing the local planning authority and the local community will be denied the opportunity to consider a genuine cumulative assessment and understand the true impact. Having regard to the letters which we sent to North Lincolnshire Council and the views expressed by the RSPB, therefore, we would suggest that the IPC is not in a position to consider the scoping report and cannot in law adopt a scoping opinion.
- 1.5 We fully accept, of course, that you may wish to take advice on the above points. We thought that it would probably be helpful, however, if we also drew your attention to a number of other material issues that we believe you should take into account should you ultimately decide to adopt a scoping opinion - notwithstanding the very serious concerns we have raised above over the legality of doing so.

2. Flexibility and Certainty

- 2.1 The scoping report at paragraphs 1.1.3 states that the main components of the proposed development include a new quay of approximately 1,630m in length, wind turbine assembly and testing capabilities, a 299MW biomass plant and a helipad. At paragraph 5.2.8 it is stated - *"Flexibility to respond to commercial opportunities and emerging economic circumstances is essential if the proposed development is to proceed and be successful. A degree of flexibility will, therefore, be built into the scheme design."*
- 2.2 In addition, the scoping report at paragraph 1.17 states that - *"Due to the fact that the proposed quay will be capable of handling more than 5 million tonnes of bulk cargo annually and the proposed biomass plant will generate more than 50MW of electricity, the proposed development incorporates two "nationally significant infrastructure projects" Therefore, under the provisions of the Planning Act 2008 (Chapter 29) it will be necessary for Able to make an application or applications for a Development Consent Order (DCO) to the Infrastructure Planning Commission (IPC) in order to authorise its construction and operation."*
- 2.3 As this is an environmental scoping exercise it is essential that there is certainty in the proposals and it should be clear from the outset as to whether the applicant intends to submit one or two applications for a DCO. The IPC Advice Note 7 ("Identifying the right environmental impacts") states –

"The scheme should be defined in sufficient detail in the scoping report so that a robust opinion can be undertaken. Any associated development required off-site should also be identified. Information on the likely effects and potential significant impact must be clearly set out for the IPC to make a judgement on the information which should be included in the ES."

- 2.4 A close analysis of the scoping report reveals a worrying degree of ambiguity in the description of the developments – there being insufficient certainty as to what is actually being proposed. Indeed, we would suggest that the wording used in paragraph 5.2.8 that there should be flexibility to respond to commercial opportunities actually negates the core objective of a scoping opinion. It is essential that the scoping opinion, the environmental

statement and indeed the draft Development Consent Order can and should only relate to the provision of –

- (i) a new quay for the wind turbine assembly operations; and
- (ii) a biomass plant.

- as outlined in the submitted scoping report.

2.5 We suggest that the flexibility sought by the applicant in the scoping opinion, if taken forward to the environmental assessment, would lead to non-compliance in terms of the EIA Regulations and Directive. Any development consent, formulated on the basis of the application and the accompanying environmental assessment – must be unambiguous and certain. As you are aware, it must, in law, be clear precisely what uses and operations the EIA is required to assess and the application must then be limited to those precise uses and operations. If the applicant wishes to use the development for any purpose other than those detailed in paragraph 2.4 (i) and (ii) above, then it must state exactly what these purposes are and assess their impacts in the EIA.

2.6 We trust that this basic premise will be underlined in any adopted scoping opinion so as to assist the applicant in the formulation of its proposals.

3. **The Quay**

3.1 A quay of 1630m is proposed to serve a biomass plant and wind turbine assembly operation. Our client has some difficulty in understanding the need for a quay of this magnitude to serve the identified uses. Indeed, on the basis of the information provided in the scoping report, this length of quay – and resulting damage to the environment – seems excessive.

3.2 The question inevitably arises, therefore, as to whether the proposed length of the quay is related to other commercial opportunities referred to in paragraph 5.2.8 of the scoping report? If so, the applicant must be required to identify these other commercial opportunities to justify the length of the quay. Further, in so doing, the full impact of these other opportunities – environment, nature conservation, noise, dust, traffic etc., must be fully assessed.

3.3 If the applicant chooses not to do this, then it needs to explain and justify in detail why a development of such a large scale and impact is required.

4. **Different use**

4.1 The scoping report should state how the environmental statement will deal with the use of the quay if, for example, the Round 3 Offshore Windfarms development does not go ahead or is reduced in scale thereby creating capacity for other commercial opportunities, the environmental impact of which will need to be assessed.

5. **Adjacent Port Operators**

5.1 The scoping report refers to the delivery of wind turbine materials through "adjacent port operators" – who may, of course, include our own client, Associated British Ports, as well as others. The scoping report does, however, lack the necessary degree of clarity in its reference to other port operators and the likely impacts arising from the transportation of materials from "other ports" to the new proposed AMEP facility.

5.2 We trust that you will require the formal application and accompanying environmental statement to be somewhat more transparent in explaining precisely what is proposed and with whom, than is presently the case in the scoping report.

6. **Transport**

6.1 The scoping report is vague and unclear as to how the wind turbine project and the biomass plant will be serviced in terms of transport. The application documentation and accompanying environmental statement must provide and assess a percentage modal split as to how each

use will be serviced by road, rail and sea. The scoping report gives virtually no information in this respect.

- 6.2 Indeed, in this context, it will also be important that the applicant provides full details and an assessment of the proposed use of the existing railway which crosses our client's land and is used by it for existing traffic.

7. **Alternative Sites/ Imperative Reasons of Overriding Public Interest (IROPI)**

- 7.1 This scoping report makes hardly any reference to alternative sites which have been considered for the proposal. There needs to be a proper assessment of alternative sites that also meet the need. Indeed, it may well prove to be the case that the need can be met elsewhere in a more sustainable way with fewer impacts on environmentally designated features on the Humber. Natural England and the RSPB will no doubt comment on the habitat designations affecting the Humber Estuary and the effect of the proposal on those habitats.

- 7.2 One obvious difficulty facing the IPC in this context, however, is that as the scoping report describes the proposed use in somewhat vague and ambiguous terms it will in fact be extremely difficult to assess the alternatives against that description. This presents as a serious defect in the scoping report which, if taken through to the formal application documentation, will leave the applicants' proposal open to challenge under a raft of UK and European legislation. We trust, therefore, that the applicant will be required to remedy this clear defect in its formal submission.

8. **Sedimentation**

- 8.1 It is noted at paragraph 6.2.32 of the scoping report that it is stated that -

"It will be important that relevant stakeholders are also consulted as part of the EIA process to determine their opinions on the approached waters assessing the impacts in terms of the hydrodynamic and sedimentary regimes and the subsequent results of that assessment."

- 8.2 Our client, ABP is particularly concerned to see detailed and comprehensive studies relating to the sedimentation effects of both capital and maintenance dredging for the proposed new port in relation to its port of Grimsby & Immingham. We suspect that the other port operators on the Humber will be similarly concerned.
- 8.3 We cannot believe that this is an area that will not be comprehensively covered by the applicant – but the scoping report, as in many areas, is a little vague and as this is such a critical area for adjacent port operators. We trust that our concerns will be relayed to the applicant when, and if you adopt the scoping opinion.

We have, as we indicated above, concentrated on what we believe are the key issues for the scoping opinion. We remain, however, extremely concerned that this application, if pursued, will not, in law, be properly made. Regardless of that concern, however, we trust that the observations made above will be of assistance in that, although the scoping report for the proposed new Killingholme development may at first glance appear to be comprehensive, in length at least, there are nevertheless in our view, some telling deficiencies that must be remedied by the submission stage.

Yours faithfully


Osborne Clarke

Encs.

T +44 (0) 20 7105 7130

F +44 (0) 20 7105 7131

brian.greenwood@osborneclarke.com

From: [Judy Bracken](#)
To: [IPC Scoping Opinion](#);
cc: [Phil Cowing](#); [Andrew Garner](#);
Subject: Proposed Killingholme Port and Biomass Plant - Environmental Scoping Report
Date: 18 October 2010 11:17:29
Attachments: [IPC ATTACHMENT 18 10 10.pdf](#)
[IPC 18 10 10.pdf](#)

Dear Mr Wilson

Please find attached my response to the above document along with a copy of my letter of 5 August 2010 responding to Able's Informal Pre-Application Consultation Document.

For the sake of good order, I will also forward hard copies of both by post.

Yours sincerely
Capt P J Cowing
Harbour Master, Humber

Capt P J Cowing | Harbour Master | ABP Humber Estuary Services
| PO Box 1 | Port House | Northern Gateway Hull | HU9 5PQ |
| Tel: (01482) 327171 | Fax: (01482) 608432 | email: pcowing@abports.co.uk

The information contained in this email may be privileged and/or confidential. If you are not the intended recipient, use of this information (including disclosure, copying or distribution) may be unlawful, therefore please inform the sender and delete the message immediately. The views expressed in this email are not necessarily those held by Associated British Ports who do not accept liability for any action taken in reliance on the contents of this message (other than where the company has a legal or regulatory obligation to do so) or for the consequences of any computer viruses which may have been transmitted by this email.

This email was received from the INTERNET and scanned by the Government Secure Intranet anti-virus service supplied by Cable&Wireless Worldwide in partnership with MessageLabs. (CCTM Certificate Number 2009/09/0052.) In case of problems, please call your organisation's IT Helpdesk.

Communications via the GSi may be automatically logged, monitored and/or recorded for legal purposes.

Correspondents should note that all communications to Department for Communities and Local Government may be automatically logged, monitored and/or recorded for lawful purposes.

Our Ref: W.13g-09-10 PJC/EMC

5 August 2010

Marine Energy Park Consultation Team
Able UK Ltd
Able House
Billingham Reach Industrial Estate
BILLINGHAM
TS23 1PX

FAO J R Monk

Dear Sirs

**PROPOSED MARINE ENERGY PARK (ABLE HUMBER PORT) AT
KILLINGHOLME – INFORMAL PRE APPLICATION CONSULTATION DOCUMENT**

This response to the above consultation document is made by me in my capacity as Harbour Master, Humber, representing Associated British Ports (ABP) as the statutory harbour authority and (in relation to pilotage) the competent harbour authority for the Humber. I am also responsible for ABP's discharge of its functions as a competent authority under the Habitats Regulations in respect of the protected sites referred to in paragraph 9.2 of the consultation document. My comments therefore relate to matters concerning safety of navigation, conservancy and associated environmental matters and are separate and distinct from any response you may receive from Associated British Ports as a port operator within the Humber.

I have read through the consultation document and have a number of points to raise. Given the constrained deadline you have set for this initial response and the outline nature of the information so far made available, I should point out that these are initial observations and I therefore reserve the right to add to, or expand on, these points in the future.

My comments are as follows. They are not in any special order of importance.

Works generally

1. The table in paragraph 10.1 of the consultation document states that the requirement for ABP to grant a works licence is to be disapplied and there is no indication that alternative protective measures will be proposed. That approach is not sustainable and is unacceptable to ABP. Please confirm that the development consent order (DCO) will include protective provisions to be agreed with ABP, failing which the works licensing provisions of the Humber Conservancy Acts and Orders will be left intact.

Quay and reclamation

2. The upstream and downstream extremities of the proposed quay and reclamation as proposed would be in close proximity to the pre-existing berth facilities at HST and South Killingholme Jetty. Quite separately from the interests of those ports themselves, the potential effect on navigation is a matter for me as I am

responsible for directing the navigation of vessels in the river Humber. There are potentially serious safety concerns as regards both construction and operation.

3. Please explain how you propose safely to exclude traffic without disrupting operations at those facilities during the construction phase of your proposed development.
4. Please explain how you propose the new facility designed so close to the others is to operate safely in relation to those existing. In particular, I should like to see your vessel management plan with details of how, and in what parts of the river, you envisage vessels manoeuvring at any state of the tide so as to gain access to the berths. Please confirm that the environmental statement (ES) will cover this and all other navigational matters.
5. The size and type of vessels will determine the answer to this question. What size (or range of sizes) of vessel is the proposed facility expected to accept?
6. It will be essential for the ES to deal fully with (i) the impact of the proposed quay and reclamation on the regime of the river and (ii) other environmental impacts. From my consideration of the information available so far, it is apparent that there should be, among others, hydrodynamic, bathymetric and ecological assessments and that the matters dealt with in the ES should include—
 - (a) any effect on sedimentary patterns, alone and in combination with other proposed projects such as Hull Riverside Bulk Terminal;
 - (b) any effect on tidal flow directions and rates, especially at the upstream and downstream extremities adjacent to pre-existing berth and terminal facilities;
 - (c) direct and indirect impacts arising from the affected inlets/outfalls and diverted sludge main and drainage ditch all mentioned in paragraph 6.2;
 - (d) impacts on the ecology of the river;
 - (e) impacts resulting specifically from the reclamation process, with full details of the process itself and the material to be used.
7. In relation to the reclamation, I note that paragraph 10.1 does not mention the restrictions in the Humber Conservancy Acts and Orders on depositing material in the river.

Dredging and spoil disposal generally

8. Dredging in the river is within my jurisdiction as part of the conservancy of the Humber.
9. The table in paragraph 10.1 of the consultation document states that the requirement for ABP to grant a dredging licence is to be disapplied and there is no indication that alternative protective measures will be proposed. That approach is not sustainable and is unacceptable to ABP. Please confirm that the development consent order (DCO) will include protective provisions to be agreed with ABP, failing which the dredging licensing provisions of the Humber Conservancy Acts and Orders will be left intact.

10. Paragraph 6.7 of the consultation document says that the approach channel "could" be dredged to accommodate vessels of 15m draft. It is not clear from the words whether the intention is to dredge the channel and, if that is intended, to what depth. For the moment I have assumed that some dredging is indeed in prospect. Please confirm what is contemplated in the approach channel.
11. The approaches to the proposed berth site are currently at a depth of only -6m CD (or thereabouts). The information just requested should please show the route of the proposed approaches and the areas where dredging is expected to be required.
12. On any basis, the dredging proposals envisage works in the river which will interact and potentially conflict not only with dredging related specifically to other port facilities but also with the conservancy dredging for which I am responsible. It will be essential that Able agrees with ABP proper arrangements for the carrying out of all dredging activities. These must recognise ABP's overall control of dredging in the river.
13. In advance of full details in the ES, it would be helpful to know at this stage what level of maintenance dredging is predicted to be required and how this assessment has been arrived at. You will want to ensure that predictions are realistic bearing in mind the experiences at HST, where dredging requirements have been far in excess of modelled predictions.
14. Please will you supply the information currently available regarding all proposed capital and maintenance dredging and its impacts and confirm that you will supply additional information as and when it comes to hand.
15. Where is it intended that the arisings will be deposited? The adjacent HU060 (3A) deposit site is already heavily utilised and there is little, if any, additional capacity.

Dredged berths and channels

16. The upstream portion of the proposed berth and approaches overlap the pre-existing approach channel to HST. It will be essential for Able to agree with ABP detailed arrangements for the avoidance of conflicting use and conflicting dredging operations. I note that nothing of this sort is indicated in the consultation document.
17. It will be essential for the environmental statement to deal fully with the impact of the dredging proposals. The matters listed in paragraph 6 above will be equally relevant to the dredging works.
18. What maximum draught of vessel is to be provided for? Paragraph 6.7 refers to vessels of 15m draught, but those could not necessarily be accommodated at a berth of -15m CD.
19. Has any consideration been given to the creation of dredged "swinging areas" in the approaches to the proposed berth and, if so, what are the details?

Lights and navigational aids

20. Please provide details of the lights and navigational aids envisaged in paragraph 3.9 of the consultation document.
21. You should, please, note that my responsibility for the navigation of the river means that control of lights and navigational aids as affecting the river rests with me. This must be provided for in the DCO.

Helipad

22. Paragraph 8.5 of the consultation document says that there is to be a helicopter landing pad. This raises a number of potential health and safety issues affecting my management of the harbour. They include –
 - (a) potential risks of conflict due to helicopters taking off and landing in very close proximity to vessels; and
 - (b) potential fire risks due to proximity to low flash cargoes handled at South Killingholme Jetty.
23. There may also be air traffic control issues in relation to Humberside Airport. While those are not in themselves matters for me, I have a direct health and safety interest in those responsible for air traffic control being satisfied that aircraft can navigate without additional risk when flying over and in the vicinity of the river.
24. I would hope that these issues can be overcome by appropriately locating and designing the proposed helicopter pad, as has happened elsewhere along the river. It will be necessary to provide me with full details of, and consult me on, the proposed landing pad.

Tall cranes

25. I do not think there are microwave links that might potentially be interfered with by tall cranes at the proposed energy park but will check whether this could become a problem for the harbour.

Compulsory purchase

26. Please note that ABP has a leasehold interest in the bed and banks of the river Humber up to high water mark of ordinary spring tides (AD), i.e. above mean high water.
27. The acceptability to ABP of losing any part of its leasehold land is a matter for me. Please provide clear details of the land proposed for acquisition, I suggest outlined on your drawing AME – 02003.
28. My attention has been drawn to the requirements of section 127 of the Planning Act 2008. It would be sensible for both Able and ABP to establish as early as possible what is ABP's position about compulsory purchase of its land. Can the information just requested please include any information relevant to Able's submissions to the IPC (or its successor) regarding section 127.

29. Clearly Able will be seeking to acquire more than just the 'footprint' of the proposed works. This would appear to remove from ABP's ownership land which will remain covered by water and on which there will not be any works. Has Able given any thought to the way in which ABP's functions will be carried out in relation to this land?

Financial implications of dredge

30. It may be envisaged that ABP is to maintain at least part of a deepened dredged channel. That dredge may go to a greater depth than exists and be deeper than is currently required by other port facilities on the Humber. The extra expense of maintaining the channel to that depth ought not therefore to fall on conservancy dues payers generally. It will be necessary to agree arrangements whereby that cost falls on Able alone (as has happened with other operators).

Protective provisions

31. Able may not be familiar with what I mean by protective provisions. These are measures that ensure that the works are carried out in a way that allows for ABP to discharge its functions. ABP's legal advisers could provide examples as and when discussions get underway, as I hope they will.

Habitats Regulations

32. The consultation document confirms that Able will provide material to enable an appropriate assessment to be carried out by the competent authority under the Habitats Regulations. I am advised that if the scheme is authorised, it could be on terms such that in the future ABP will become a competent authority required to make its own appropriate assessment. This will have to be catered for in any arrangements between the parties, if not in the DCO itself.

Further information

My meetings with Able so far have been helpful. Building on this, it will be beneficial to all concerned for ABP to be kept fully informed about the project as the application is developed. Please confirm that contact will be maintained on a regular basis and confirm the identity of the people responsible at Able. Please also confirm that a proper programme of meetings will be agreed, and that I will be provided with all relevant material as that material comes to hand.

Yours faithfully

Capt P J Cowing
HARBOUR MASTER, HUMBER

cc Capt. Colin Harrison charrison@ableuk.com }
 Richard Cram rcram@ableuk.com } via email only



Infrastructure Planning Commission
Temple Quay House
Temple Quay
Bristol
BS1 6PN

For the attention of Mark Wilson

18 October 2010

Dear Sirs

**Proposed Killingholme Port and Biomass Plant (“the Project”)
Able UK Limited (“the Applicant”)
Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 SI 2263 (“the
EIA Regulations”)**

This letter responds to David Price’s letter to me of 21 September. I write it in my capacity as Harbour Master, Humber, representing Associated British Ports (ABP) as the statutory harbour authority. It should be noted that my interests in that capacity are separate and distinct from those of ABP as a port operator within the Humber.

My comments on the scoping report should be read in the context of my letter responding to Able UK’s preliminary consultation. I accordingly enclose a copy of my letter to Able dated 5 August 2010. The scope of my functions can be seen in the first paragraph of that letter.

I have the following comments on the scoping report and EIA/ES proposals. They are not in any special order of importance. References are to paragraph numbers in the scoping report.

1. The magnitude of the project turns on the supposition that the new facility will be used by very large vessels. I note from paragraph 3.3.7 and 3.3.17 that the depth of channel will permit the passage of vessels of 13.5 metres draught. The scoping report makes clear that the adverse impacts from dredging in particular may be significant and that effects will go beyond the boundary of the proposed harbour. In view of this, it will be important for the EIA/ES to identify the case of need for which Able will be arguing which will have a significant bearing on the transport assessment and the ES conclusions regarding mitigation.
2. I note that two different map bases appear to have been used (see and compare, for example, Figs 1.1 and 1.2). It would be helpful if the same mapping style could be used throughout. That adopted for fig 1.2 seems preferable.
3. In paragraph 1.1.3 the description of the new quay does not mention the extensive dredged berthing pockets and manoeuvring area shown on Fig 1.1. Later in the report, the description of dredging is in general terms. The ES should specifically identify the dredged areas in front of the proposed new quay and explain the anticipated use assumed for the purposes of the EIA. In particular, the EIA should identify the nature and frequency of the activities to be undertaken in the manoeuvring area and the dredged area particularly where it intrudes—
 - (a) Into the approach channel to Humber Sea Terminal, and
 - (b) in front of the adjoining South Killingholme Jetty, Immingham Gas Terminal and Humber International Terminal.
4. Also in paragraph 1.1.3, I note that the location of the helipad is yet to be determined. The EIA and ES should make clear how that uncertainty affects the assessment of the helipad’s impacts.

PO BOX 1
PORT HOUSE
NORTHERN GATEWAY
HULL HU9 5PQ

TELEPHONE +44 (0)1482 327171
FACSIMILE +44 (0)1482 608432

OUT OF HOURS: VTS HUMBER
TELEPHONE +44 (0)1482 212191
FACSIMILE +44 (0)1482 218773

e-mail: hes@abports.co.uk
www.humber.com
www.abports.co.uk

5. Fig 1.2 and elsewhere shows the extent of the proposed dredging in front of the proposed new quay. This information was not made available in the pre-scoping consultation material. Although the report identifies issues likely to arise out of dredging impacts, it does not identify the purposes for which these extensive areas will be used by shipping nor how it is envisaged such use, and the projected dredging activities, will take place. The ES must address this in detail in relation to—
 - (a) the especially sensitive approach channel serving the port facility immediately adjoining upstream of the proposed development (Humber Sea Terminal) and,
 - (b) directly in front of three adjoining port facilities immediately downstream (South Killingholme Jetty, Immingham Gas Terminal and Humber International Terminal).
6. The ES should specifically explain how it is envisaged all those interested (Able, ABP as harbour authority and the adjoining ports themselves under their own dredging powers) will in future carry out capital and maintenance dredging in the dredging area shown on the plan.
7. I note from paragraphs 2.3 and 7.2, and Annex A, that the consultees did not include Calor. As this company is a major user of the Immingham Gas Terminal, it should also be consulted. (I note Able has consulted ConocoPhillips, the other major user of the gas terminal.) Able ought also to have consulted Humber Oil Terminals Trustee, another user of the gas terminal, and Humber Sea Terminal Limited, the operator of Humber Sea Terminal.
8. In paragraph 3.2.10 the report says that ABP leases some of the foreshore from the Crown. That is incorrect. ABP holds a long (999 year) lease of the whole of the Humber foreshore.
9. It is understood that Able will propose the acquisition of part of ABP's leasehold. The ES should identify the precise extent of both the geographical area of the land proposed for acquisition and the interest proposed to be acquired (whether ABP's existing leasehold or some other interest or right in the foreshore). It is assumed that the DCO will seek compulsory purchase powers, but the ES should say. (Able will of course have to justify any proposed compulsory purchase.) In addition, the ES must deal with the question in paragraph 29 of my letter of 5 August (discharge of harbour authority functions in respect of foreshore that is not reclaimed).
10. The ES must demonstrate (if it is the case) that the semi-circular swinging area depicted in Figs 1.1 and 1.2 is sufficiently large to swing large deep vessels safely. Real-time full motion simulation will be required to ascertain whether a larger rectangular apron is needed. If that turns out to be a possibility, the ES must also address the impacts of the increase in the dredged area which will inevitably result.
11. Paragraph 3.3.3 refers to a quay length of 1630m. I am seriously concerned about the feasibility of being able to accommodate that length of berth in the available river frontage without its proximity compromising navigational safety at adjacent berths, particularly Humber Sea Terminal. Again, the ES must deal with this and a full motion simulation will be required.
12. Paragraph 3.3.7 says that facilities will be for vessels of up to 10m and 13.5m draft. The pre-consultation document spoke of 15m draft vessels. If it has now been decided that 13.5m draft is the deepest that will be provided for, this needs to be confirmed.
13. Paragraph 3.3.7 makes clear that the depths dredged at the berths will have to be sufficient to accommodate vessels of 10m and 13.5m draft, but it gives no indication of the dredged depth required to achieve that. I note that paragraph 6.13.10 indicates an approximate depth of 11m for the channel. The ES should make clear what dredged depths are envisaged in order to provide the proposed facilities. The depth of dredging will of course determine the amount of the dredged material and is therefore an essential element in the assessment of dredging and disposal impacts.

14. I note from paragraph 3.3.8 that the new facility will operate 24 hours a day, 365 days a year. This makes it all the more important for the ES to make clear assumptions as to how this intensive level of operation is expected to operate in the wider context of shipping in the river Humber.
15. In relation to paragraph 3.3.10, it will be relevant to know the expected volumes of the construction materials that will be brought by sea and the extra vessels expected to be generated.
16. Paragraph 3.3.30 states that the spoil site for the disposal of dredged material is to be agreed with me. Unfortunately, that in itself will not overcome what appears may be a capacity problem – see paragraph 15 of my letter of 5 August. It will be essential for the ES to identify precise disposal areas sufficient to take the anticipated volumes of arisings (and to leave a margin on top).
17. It is clear from paragraphs 6.2.22 to 6.2.26 that both the construction and operation of the new quay and other elements of the proposed development may have significant effects on the hydrodynamic and sedimentary regimes in the Humber. In addition, paragraphs 6.13.8, 6.13.9 and 6.13.10 reveal that the dredging required and close proximity to other port facilities will be likely to have major impacts on the regime of the river and safety implications for those adjoining facilities. These are all major issues which may determine whether the scheme can proceed. It will therefore be essential for the issues in these eight paragraphs to be addressed in detail in the ES. This is an area where (if only as an aspect of mitigation) the ES must also address the financial implications of these adverse impacts and how it is expected that the mitigation will be funded.
18. Paragraph 6.2.31 refers to computer modelling assessment of hydrodynamic and sedimentary regime around the development and "if relevant" within the wider estuary. Particularly given the acknowledged extent of the potential impacts, it will be not only relevant but also essential to consider impact on the wider estuary on both a stand alone and an in-combination basis.
19. My letter of 5 August drew attention to the absence of any suggestion that the Order might contain protective provisions. Paragraph 3.3.29 is an example of where such provisions are required. The detailed design of the quay could have impacts for the river and should therefore be subject to approval by ABP, as is normal in such cases. Another significant example of this is in paragraph 4.6.1 and table 4.2 where dredging permission from ABP is to be disappplied in the application. While ABP does not expect its own dredging controls to apply in relation to these works, the ABP controls must be replaced by equivalent controls in the Order, to be achieved through protective provisions. The ES should therefore identify these and other cases where there is a need for regulatory input by ABP. Another example where this will be required is in dredging methods, paragraph 3.3.30.
20. Paragraph 5.6.7 refers to impacts affecting a wider area around the scheme. The examples given appear to be land based. The ES must take into account the impacts of this proposed development on shipping and navigation in the river Humber (not just in the vicinity of the proposed facility) and on the other port facilities adjoining and nearby.
21. Paragraph 5.6.19 refers to other schemes which the EIA may have to consider. It should be noted that these should include ABP's Hull Riverside Bulk Terminal.
22. Paragraph 6.11.3 refers to a wreck recorded as being "very close" to the site of the proposed new quay. The dredging area as shown in Fig 1.1 appears to encompass a charted wreck with a charted depth of 8.8m. The Scoping Report refers to a wreck possibly being disturbed. Although the treatment of the wreck must depend on the depth to which Able proposes to dredge at this point, the wreck may in fact need to be removed. Using the assessed depths and volumes of arisings, the ES should state what is in prospect here.

23. Paragraph 7.3.3 is expressed in very wide terms so, although they may pick up the items addressed in my letter of 5 August, it is important to note that all these items must indeed be addressed in the ES. I draw attention to my specific questions in paragraphs 3, 4, 5, 9, 10, 11, 14, 15, 18, 19, 27 and 29.
24. Finally, I assume the ES will flesh out the proposed timetable briefly outlined in the scoping report.

Yours faithfully

A handwritten signature in black ink, appearing to read 'P J Cowing', with a stylized flourish at the end.

Capt P J Cowing
Harbour Master, Humber

Enc

Anglian Water
Services Limited
PO Box 1067
PETERBOROUGH
PE1 9JG

Mr D Price
Infrastructure Planning Commission
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Tel 01733 414690
Fax 01223 201001
Email: planningliaison@anglianwater.co.uk

Our ref 1600/SP100(001)

Your ref 100917_EN010030_252740

01 October 2010

Dear Mr Price,

**Site: Proposed Killingholme Port and Biomass Plant (The Project), NORTH
KILLINGHOLME**

Thank you for giving Anglian Water the opportunity to comment on the above.

The type of information Anglian Water would wish to be provided in the environmental statement is as follows:

Water supply requirements, how much water would be required to serve the sight at any given time.

Disposal of foul drainage, this would include flow rates and quantities of foul water at any given time.

Management of surface water, the preferred method of surface water disposal would be to a Sustainable Urban Drainage System (SUDS) with connection to a public surface water sewer as a last option.

Infrastructure affected, these can be service pipes or pumping stations which could be affected through this development.

If any further information or assistance is required concerning this matter please contact me on 01733 414570.

Yours sincerely

Keith Simpson
Planning & Equivalence Team

Registered Office
Anglian House,
Ambury Road,
Huntingdon,
Cambridgeshire. PE29
3NZ
Registered in England
No. 2366656

an AWG Company

Directorate of Airspace Policy

Mr Mark Wilson(via e-mail)
Infrastructure Planning Commission (IPC)

20 September 2010

Ref ERM/DAP/KillingholmeBioMassPlantAndTurbines

Dear Mr Wilson

Proposed Killingholme Port and Biomass Plant (Able Marine Energy Park (AMEP)) – Scoping Comment

The Civil Aviation Authority (CAA) has been asked by the Commission to provide scoping comment related to the proposed Killingholme Port and Biomass Plant, also referred to as AMEP. I understand that the development would include a new power station, 2 operational wind turbines and a helicopter landing site. I hope the following is useful.

Power Station

The Scoping Report (SR) fails to provide any details of the physical scale of the proposed biomass power station. However, based upon other similar developments, it is anticipated that an associated chimney stack (or stacks) would be something between 50-100m high. On that basis, I can advise that the various proposed structures would not formally constitute an aviation en-route obstruction. I have therefore few associated observations other than to highlight the eventual need for the relevant planning authorities to check any aerodrome-safeguarding requirement to identify any aerodrome specific safeguarding issues. To that end I note the close proximity of Humberside International Airport (HIA) and would anticipate a related need to establish an Airport-associated viewpoint. The Environmental Impact Assessment (EIA) will need to examine and, where applicable, address the potential local aerodrome issues.

Additionally:

- Lighting. Given that the chimney-stack(s) is (are) likely to be the tallest structures in the immediate vicinity, I believe that it would be prudent to consider the need to equip the structures with aviation warning lighting. For background:
 - In the UK, the need for aviation obstruction lighting on 'tall' structures depends in the first instance upon any particular structure's location in relationship to an aerodrome. If any structure constitutes an 'aerodrome obstruction' it is the aerodrome operator that with review the lighting requirement. For civil aerodromes, they will, in general terms, follow the requirements of CAP 168 - Licensing of Aerodromes.
 - Away from aerodromes Article 219 of the UK Air Navigation Order applies. This Article requires that for en-route obstructions (ie away from aerodromes) lighting only becomes legally mandated for structures of a height of 150m or more. However, structures of lesser high might need

Civil Aviation Authority

CAA House 45-59 Kingsway London WC2B 6TE www.caa.co.uk
Telephone 0207 453 6545 Fax 0207 453 6565 marks.smiles@caa.co.uk

aviation obstruction lighting if, by virtue of their location and nature, they are considered a significant navigational hazard.

- In the case in question, even if there proves to be no aerodrome related lighting requirement, I believe the 'by virtue of their location and nature' argument could hold true and therefore lighting may be required.
- At potentially over 300ft high, there might be a requirement for the chimney-stacks to be promulgated and charted for civil aviation purposes.
- Due to the unique nature of associated operations in respect of operating altitudes and potentially unusual landing sites, it is important to establish the viewpoint of local emergency services air support units in respect of the power station and associated new structures.
- It is anticipated that the facility would not involve the flaring and venting of gas, either routinely or as an emergency procedure such as to cause a danger to overlying aircraft. If that is not the case parties are invited to use myself as an appropriate point of contact for any further related discussion.

Wind Turbine Development

Whilst the SR fails to give any indication of the maximum blade tip height of the 2 proposed turbines, like any wind turbine development, the proposed subject development is likely to have the potential to impact upon aviation-related operations; the Department for Trade and Industry (DTI – now the Department for Energy and Climate Change)-sponsored document 'Wind Energy and Aviation Interests' and Civil Air Publication 764 refer¹. The related need to establish the scale of the potential impact of the Killingholme development (or indeed any other wind turbine related proposal) is evident.

Further to the comment above, the best means by which to initiate the aviation related consultation process is via the completion and submission of an associated aviation pre-planning proforma in line with the process described within the aforementioned DTI guidance document. To date I can find no record of the submission of a pre-planning proforma in respect of a development under the title of 'Killingholme'.

Notwithstanding the above, I can advise that the development might have a potential impact upon operations associated with HIA and recommend that the developer open lines of communication with the aerodrome licensee to establish the scale of any such impact. All parties should be aware that aerodrome safeguarding responsibility rests with the aerodrome operator / licensee. Any related EIA would be expected to acknowledge and quantify any potential impact upon the Airport-related operations and, where applicable, detail appropriate mitigation.

Similarly, as will all wind turbine developments of this scale, the EIA will need to detail the associated viewpoints of both NATS and Ministry of Defence (MoD).

Additionally, if more generically, all parties should be aware that:

- There might be a need to install aviation obstruction lighting to some or all of the associated wind turbines should development proposals be progressed.

¹ These documents are available at <http://www.bwea.com/pdf/Wind-Energy-and-aviation-interim-guidelines.pdf> and <http://www.caa.co.uk/docs/33/Cap764.pdf> respectively. Please note that after a full review CAP 764 was re-issued on 12 February 2009.

This comment is made specifically if there were concerns expressed by other elements of the aviation industry, ie the operators. For example, if the MoD or a local aerodrome had suggested such a need, we the CAA (sponsor of policy for aviation obstruction lighting) would wish, in generic terms, to support such a claim. We would do so if it could reasonably be argued that the structure(s), by virtue of their location and nature, could be considered a significant navigational hazard. That said, if the claim was clearly outside credible limits (ie the proposed turbine(s) was/were many miles away from an any aerodrome or it/they were of a height that was unlikely to effect even military low flying) the Authority would play an 'honest-broker' role. Whilst responsibility for establishing further lighting related comment rests with the developer, I should highlight that, in isolation, the CAA would not make any related case or recommendation for aviation lighting.

- International aviation regulatory documentation requires that the rotor blades, nacelle and upper 2/3 of the supporting mast of wind turbines that are deemed to be an aviation obstruction should be painted white, unless otherwise indicated by an aeronautical study. It follows that the CAA advice on the colour of wind turbines would align with these international criteria. As with the potential need for lighting, in isolation, the CAA would make no special case for marking.
- There is a civil aviation requirement in the UK for all structures over 300 feet high to be charted on aviation maps. Should this development progress and the 300 feet height be breached, to achieve this charting requirement, developers will need to provide details of the development to the Defence Geographic Agency.
- The number of pre-planning enquiries associated with windfarm developments has been significant. It is possible that the proliferation of wind turbines in any particular area might potentially result in difficulties for aviation that a single development would not have generated. It is, therefore, not necessarily the case that, because a generic area was not objected to by the aviation industry, future, similarly located potential developments would receive the same positive response. There is a CAA perceived requirement for a co-ordinated regional wind turbine development plan, aimed at meeting renewable energy priorities, whilst addressing aviation concerns and minimising such proliferation issues.
- Due to the unique nature of associated operations in respect of operating altitudes and potentially unusual landing sites, it would also be sensible to establish the related viewpoint of local emergency services air support units.

Helicopter Landing Site

Firstly in relationship to the site itself, in terms of the role of the CAA, the status of the site in aviation terms and the generic use of the airspace overhead the site in question it is important to understand that:

- The site is unlikely to be a CAA licensed facility. The Authority would have therefore no role to play in the regulation of the helicopter landing site itself. That is not to say that pilots operating at the site do not have to comply with the Rules of the Air Regulations (the Highway Code for pilots), merely that we would have no role to play in respect of the operation of the land for aviation purposes, land use clearly being a planning issue.
- The airspace over the site in question is currently, from the surface to a height of several thousand feet is Class G airspace, in lay terms, uncontrolled airspace. Class G airspace is established from the surface to varying heights throughout

much of the UK.

- Away from significant aerodromes and outside any other airspace reservations, Class G airspace can be compared to the public highways. Providing pilots are suitably licensed and they operate in accordance with the Rules of the Air, they can operate in Class G airspace without special permission.
- Subject to the Rules of the Air and any overriding safety considerations, there is no set allocation of priorities associated with the use of Class G airspace.

Given the above, the CAA has no issues associated with the proposed redevelopment of the land (the construction of the helicopter landing pad) or the use of the site for aviation related activities. However, notwithstanding the above, the airspace over the site in question is significant as it lies so close to HIA. Accordingly, it is essential that the Council establish the related viewpoint of the HIA licensee and that any issues highlighted are taken into full account during planning deliberations.

Conclusion

I believe the EIA should acknowledge and, where applicable, address the issues highlighted above.

Whilst none of the above negates any aforementioned future need to consult in line with Government requirements associated with the safeguarding of aerodromes and other technical sites, I hope this information matches your requirements. Please do not hesitate to get in touch as and when you require any further comment or needs clarification of any point.

Yours sincerely

{original signed}

Mark Smailes
Off Route Airspace 5

From: [Alan Slee](#)
To: [IPC Enquiries;](#)
cc: [IPC Scoping Opinion;](#)
Subject: EIA - Proposed Killingholme Port and Biomass Plant (100917-
_EN010030_252740)
Date: 20 September 2010 12:05:55

Dear David,

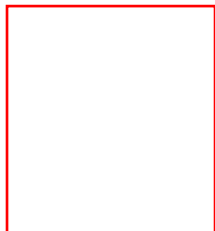
**EIA - Proposed Killingholme Port and Biomass Plant (100917-
_EN010030_252740) DN40 2PB/HU12 9JX**

Further to your communication to E S Pipelines Ltd, ESP Networks Ltd, ESP Pipelines Ltd, ESP Electricity Ltd and ESP Connections Ltd dated 17 September 2010 I can confirm that our businesses have no comments at this stage.

Regards,

Alan Slee
Operations Manager

DD 01372 227567
Mobile 07766 802070
Fax 01372 386203



Hazeldean,
Station Road,
Leatherhead
KT22 7AA

☎ 01372 227560 📠 01372 377996

[MAP](#)

<http://www.espipelines.com>

The information in this email is confidential and may be legally privileged. It is intended solely for the addressee. Access to this email by anyone else is unauthorised. If you are not the intended recipient, any disclosure, copying, distribution or any action taken or omitted to be taken in reliance on it, is prohibited and may be unlawful.



Please consider the environment before printing this e-mail

This email was received from the INTERNET and scanned by the Government Secure Intranet anti-virus service supplied by Cable&Wireless Worldwide in partnership with MessageLabs. (CCTM Certificate Number 2009/09/0052.) In case of problems, please call your organisation's IT Helpdesk.
Communications via the GSi may be automatically logged, monitored and/or recorded for legal purposes.

Correspondents should note that all communications to Department for Communities and Local Government may be automatically logged, monitored and/or recorded for lawful purposes.

From: lunderw599@aol.com
To: [IPC Scoping Opinion;](#)
Subject: Proposed Killingholme Port & Biomass Plant. Able Uk
Date: 15 October 2010 12:11:50

Dear Sir

East Halton Parish Council has the concerns/comments to make which we feel should be taken into account, regarding the above "project".

1. The impact on East Halton village. 2. Traffic and the infrastructure. 3. Light pollution, 4. Adequate landscaping. 5. Noise levels.

Yours sincerely

Lynne Underwood (clerk, on behalf of East Halton Parish Council)

This email was received from the INTERNET and scanned by the Government Secure Intranet anti-virus service supplied by Cable&Wireless Worldwide in partnership with MessageLabs. (CCTM Certificate Number 2009/09/0052.) In case of problems, please call your organisation's IT Helpdesk.
Communications via the GSi may be automatically logged, monitored and/or recorded for legal purposes.

Correspondents should note that all communications to Department for Communities and Local Government may be automatically logged, monitored and/or recorded for lawful purposes.



County Hall Beverley East Riding of Yorkshire HU17 9BA Telephone (01482) 887700
www.eastriding.gov.uk

Peter Ashcroft Head of Planning and Development Management

IPG

04 OCT 2010

29th September 2010

Mr M Wilson
Infrastructure Planning Commission
Temple Quay House
Temple Quay
Bristol
BS1 6PN

REF:

Our Ref:
Your Ref: 100917_EN010030_252740

Contact: Mr Shaun Robson
Telephone: 01482 393742
E-Mail: shaun.robson@eastriding.gov.uk

Dear Mr Wilson

**PROPOSED KILLINGHOLME PORT AND BIOMASS PLANT ("the Project")
ABLE UK LTD ("the Applicant")
INFRASTRUCTURE PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)**

Thank you for your letter dated 17th September 2010.

The Local Planning Authority has studied the Scoping Report and has the following comments to make:

The site lies mainly within the administrative boundary of North Lincolnshire and North East Lincolnshire, however, the proposal abuts the East Riding of Yorkshire administrative area and a parcel of land has been identified within the proposed development boundary on the north shore of the river Humber.

It is somewhat difficult to ascertain what is intended for the identified area as no specific information is included within the scoping report. It is assumed that the area is to form the definitive habitat compensatory area that is discussed within the report although further detailed clarification is required in relation to this in order for the potential implications to be identified. The Council has not, at this time, carried out an internal consultation exercise due to the limited information.

If this area is to be developed as a "habitat" consultations should be carried out the Authority's Bio-diversity Officer, the Yorkshire Wildlife Trust, Natural England and the RSPB to ensure that the area identified is suitable. However, with regard to the area identified, a number of pre-application enquiries have been received by the Authority in relation to the development of wind farm proposals that if brought forwarded could impact on the proposed nature of the area. Therefore this issue should be taken into account.

Turning to the proposal, the Local Planning Authority is supportive of the scheme and in particular the contribution it will make in relation to renewable energy, renewable energy production facilities and employment diversification within the Humber sub-region. The Council is however concerned that no information has been provided in relation to the parcel of land within the proposed development boundary on the north shore of the river Humber.



INVESTORS
IN PEOPLE



If the proposed development area identified within the East Riding is to be included within the scheme the Local Planning Authority would urge early and consistent community engagement in particular with the local Parish Councils, Ward Members and residents of Keyingham, Paull and Sunk Island.

The Local Planning Authority wishes to be fully involved as the scheme progresses through the IPC (or their successors).

If you require any further assistance from the Council please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S Robson', written in a cursive style.

Shaun Robson
Principal Development Control Officer
(Minerals and Waste)

Infrastructure Planning Commission,
Temple Quay House,
Temple Quay,
BRISTOL
BS1 6PN

Our Ref: NSIP/0011/00
Your Ref: 100917_EN010030_
252740
Date: 07 October 2010

For the attention of Mark Wilson

Dear Sirs,

**Proposed Killingholme Port and Biomass Plant
Proposal by Abel UK Ltd
Infrastructure Planning (Environmental Impact Assessment) Scoping Report**

Thank you for your letter of 17th September, 2010 consulting English Heritage about the above Environmental Scoping Report.

From the information provided, we consider that the scope and extent of the proposed assessment to be broadly acceptable insofar as it relates to archaeology and the historic environment.

However, the Scoping Report provides little information on the anticipated size of the structures that might be built as part of this development. If the buildings and structures associated with Biomass plant are typical of the other schemes which are coming forward elsewhere across the country, then (given the topography of the surrounding landscape) this development could have an impact upon the character and setting of historic assets at some distance from the site itself.

The recent EIA Scoping Report for a Biomass Plant at Brigg, for example, considered that aspects of the scheme could impact upon elements of the historic environment up to 10km away. In the absence of any information of the likely scale of the buildings on this site, one might expect this proposal to have a similar impact upon the heritage assets within the surrounding area. Consequently, unless it can be demonstrated to the contrary, we would expect the Environmental Impact Assessment to examine the potential effects upon the significance of all designated historic assets and their settings within a similar-sized radius (i.e. Listed Buildings (all grades), Scheduled Monuments plus other nationally important archaeological sites, Registered Historic Parks and Gardens, and Conservation Areas) together with potential impacts upon non-designated heritage assets of local historic or architectural interest and value, since these make an important contribution to the local

distinctiveness of an area and its sense of place. This covers buildings, historic open spaces, historic features and the wider historic landscape.

The ability to perceive the archaeological sites and historic buildings from publicly-accessible places is clearly a significant factor in terms of public perception, understanding and enjoyment of heritage assets and the historic environment. However, assessment of setting for planning purposes is not restricted to publicly-accessible places, and the consideration of this issue it is therefore necessary to take account of perceptions from other places and the landscape in general. The potential visual impact of the proposed large-scale structures can be usefully represented by reliable photo-montages and 'wireframe views', produced according to a scientifically acceptable methodology, but perhaps most effective is the use of temporary height markers to create verified photographic views from all key viewpoints.

The assessment of potential impacts on the setting of heritage assets should also take account of the impact which associated activities may have upon perceptions, understanding and appreciation of a site, including construction activity, servicing and maintenance, and associated traffic.

We have the following specific comments to make on the content of the Scoping Report:-

- Page 111, Paragraph 6.11.12 - In terms of the marine archaeology, it should be noted that the local planning authority is only responsible for advice and overseeing the archaeological mitigation strategy to the Low Water Mark. Thereafter, English Heritage is the body responsible for agreeing the mitigation strategy.
- Page 111, Paragraph 6.12.2 – Grade II Listed Buildings are of national importance
- Page 138, Table 8.1 – Section 17 of the proposed ES should be widened to consider terrestrial archaeology and the historic environment

If you have any queries about any of the matters raised above or would like to discuss anything further, please do not hesitate to contact me.

Yours faithfully,

Ian Smith
Regional Planner
English Heritage, Yorkshire and the Humber Region
Telephone: 01904 601977
e-mail: ian.smith@english-heritage.org.uk

From: [Rogers, Richard](#)
To: [IPC Scoping Opinion;](#)
cc: [Staff, Tom; Pace, Steve;](#)
Subject: Proposed Killingholme Port and Biomass Plant, Able UK Ltd. EIA Regulations.
Date: 15 October 2010 15:23:01

Dear Mr Price

I refer to your letter dated 17 September 2010 and respond as follows:

E.ON UK plc has concerns about the impact of the proposed development on the operation (including maintenance and running) of our Power Station at Killingholme.

It is noted that the intention is to raise land levels and reduce the current area of protection provided to our Cooling Water Culverts and associated equipment. This is unacceptable to E.ON unless it can be proved to our complete satisfaction that this will not impact on our ability to run the Power Station within existing environmental parameters and will not adversely affect our efficiency or costs of operation.

The same point is made in respect of proposed work in the Humber where we will require proof that the proposals will not interfere with our ability to extract and discharge cooling water.

I note the requirement to provide information and reserve the right to make a reasonable charge to cover any costs we incur in this process.

Regards

Richard Rogers BSc MRICS
Senior Surveyor
Business Services
E.ON UK Plc

T: 02476 183 876 | M : 07836 649 487 | Westwood Way | Westwood Business Park
| Coventry | CV4 8LG

Service and Solutions
Provided by Business Services

Disclaimer Notice

This message and any attachments are confidential and should only be read by those to whom they are addressed. If you are not the intended recipient, please contact us, delete the message from your computer and destroy any copies. Any distribution or copying without our prior permission is prohibited.

Internet communications are not always secure and therefore the E.ON Group does not accept legal responsibility for this message. The recipient is responsible for verifying its authenticity before acting on the contents. Any views or opinions presented are solely those of the author and do not necessarily represent those of the E.ON Group.

E.ON UK plc, Westwood Way, Westwood Business Park,
Coventry, CV4 8LG.
Registered in England & Wales No. 2366970

Telephone +44 (0) 2476 192000
Fax +44 (0) 2476 42 5432

This email was received from the INTERNET and scanned by the Government Secure Intranet anti-virus service supplied by Cable&Wireless Worldwide in partnership with MessageLabs. (CCTM Certificate Number 2009/09/0052.) In case of problems, please call your organisation's IT Helpdesk.

Communications via the GSi may be automatically logged, monitored and/or recorded for legal purposes.

Correspondents should note that all communications to Department for Communities and Local Government may be automatically logged, monitored and/or recorded for lawful purposes.

Carr House
Greasbrough Road
Rotherham
South Yorkshire S61 4QQ

T 0845 641 3010
F 0845 641 1808
E enquiries@fulcrum.co.uk
I www.fulcrum.co.uk



Your Reference: 100917_EN010030_252740
Date: 20/09/10

Mr Mark Wilson
Infrastructure Planning Commission (IPC)
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Dear Mr Wilson,

Ref: 100917_EN010030_252740

Re: Proposed Killingholme Port and Biomass Plant.

Thank you for your request for information about Fulcrum Pipelines Limited's pipes and equipment.

We can confirm that Fulcrum Pipelines Limited do not currently have any existing pipes or equipment on or around the above site address.

Please note that other Gas Transporters may have plant in this locality which could be affected by your proposed works.

If you have any future requests for information about our plant, please email these to us at FPLplantprotection@fulcrum.co.uk.

If you have any queries regarding this letter, please contact your Fulcrum Advisor, Deborah Turner on 01709 844407, who will be happy to help.

Yours sincerely,

Ian Foster
Head of Asset

Chief Scientific Adviser's Group
Building 3.3
Redgrave Court
Merton Road
Bootle
Merseyside
L20 7HS

Your ref:
100917_EN010030_252740

HSE email: NSIP.applications@hse.gsi.gov.uk

Mr Mark Wilson
EIA & Land Rights Advisor
Infrastructure Planning Commission (IPC)
Temple Quay House
Temple Quay
Bristol
BS1 6PN

15th October 2010

Dear Mr Wilson

**PROPOSED KILLINGHOLME PORT AND BIOMASS PLANT (“the project”)
ABLE UK LTD (“the applicant”)
INFRASTRUCTURE PLANNING (ENVIRONMENTAL IMPACT
ASSESSMENT)
REGULATIONS 2009 SI 2263 (“the EIA Regulations”)**

Thank you for your letter of 17th September 2010 regarding the information to be provided in an environmental statement relating to the above project.

There is little for HSE to comment on at this stage however, there are some observations that it would seem sensible to pass on to Able UK Ltd.

Major Hazards sites and explosives site within the vicinity of the proposed development

A check has been made on the locations of licensed explosives sites in relation to the proposed Killingholme Port and Biomass Plant. On the basis of the information provided, there are no HSE-licensed explosives sites which might impact on this development.

HSE has taken the opportunity to check its records to establish whether the proposed development would fall within HSE's consultation distance (CD) for a major hazard installation or pipeline. Our records show that the proposed

Killingholme Port and Biomass Plant falls within the following HSE major hazard installation land use planning (LUP) consultation distances:

- Conoco Philips Ltd, Humber Refinery
- Humber LPG Terminal, South Killingholme
- Simon Warehousing Services, North Killingholme Cargo Terminal
- Simon Storage, Killingholme Wharfage Co Ltd.
- Kali (UK) Limited, Clough Lane
- The Oil and Pipeline Agency, Killingholme Pipeline Storage Depot.

The proposed site does not appear to be within the Consultation Distance of a major hazard pipeline. However, the applicant should contact the National Grid to ensure the accurate location of any high pressure pipelines.

If the planning application is only for the development site, HSE's codified advice (PADHI+) would produce a "do not advise against" response to this proposed development.

As this advice is based on a number of assumptions which if incorrect could affect HSE's advice, the promoter should contact HSE to clarify the position as part of the s42 consultation.

Hazardous Substance Consent (HSC)

Any site needing to store or use hazardous substances at or above specific quantities must obtain consent from the Hazardous Substances Authority (HSA) in accordance with the Planning (Hazardous Substances) (Amendment) (England) Regulations 2009. In this case the Hazardous Substances Authority (HSA) is North Lincolnshire Local Authority. The list of named substances and the controlled quantities can be found in Schedule 1 of the Regulations.

The report refers to the use of Light Fuel Oil (Petroleum Product) during plant start up. Depending on the amounts stored and used onsite, there may be a requirement for a Hazardous Substances Consent.

HSC might also be required for the presence of hazardous substances even though the amount present is below their controlled quantity. This may happen because substances within the same generic category that have similar hazard characteristics would be added together to determine whether consent is required for some or all of them.

Able UK Limited should check if any of the named substances in Part A of the Schedule will be present at or above the specified controlled quantities which would require a Hazardous Substances Consent. In many cases, the substances present may not be included in Part A; but they may fall within one or more of the categories of substances & preparations specified in Part B of the Regulations. If that is the case and they are present at or above the controlled quantity, then again the promoter would need to obtain HSC.

The report states that deemed consent for the storage/use of hazardous substances will be sought in the application, but there is insufficient detail for HSE to provide advice on whether HSE would recommend granting Hazardous Substances Consent.

Electrical Safety

This project may involve connections to the electrical power distribution systems and have an impact on existing generation, transmission and distribution assets. As well as satisfying general UK health and safety legislation (i.e. Health and Safety at Work etc Act 1974 and supporting regulations), the proposed design and future operations must comply with the Electrical Safety, Quality and Continuity Regulations 2002, as amended. Generators, distributors, their contractors and others have defined duties in order to protect members of the public from the dangers posed by the electrical equipment used. HSE enforces the safety aspects of these regulations. If you have any doubts about the particular application of these regulations in terms of either the operation or construction of substations, overhead lines or underground cables, please contact Mr J C Steed, Principal Specialist Inspector (Electrical Networks), either at john.steed@hse.gsi.gov.uk or Rose Court GSW, 2 Southwark Bridge Road, London SE1 9HS.

Construction, transport and general health and safety information

The design should minimise workplace transport accidents as they are one of the most common causes of fatalities in industry. At the design stage of any new facility proper consideration should be given to designing out foreseeable risks, so far as is reasonably practicable (*Regulation 11, Construction (Design and Management) Regulations 2007*). Such risks will include those arising from the movement of vehicles and plant onto and around the site, inside buildings including materials reception (tipping) halls, sorting and storage areas.

It is vital that the design and layout of the proposed Biomass Power Station (site and buildings) ensures so far as is reasonably practicable, safe pedestrian/traffic segregation and safe traffic movement of vehicles and plant. In particular, the design should be reviewed to ensure proper consideration has been given to:

- Optimising use of one-way traffic systems across the site.
- Eliminating or, where this is not reasonably practicable, reducing reversing (i.e. the number of reversing manoeuvres required, the time spent reversing, the distance reversed) via layout of traffic routes and accompanying working systems across the facility, but especially in the materials reception (tipping) halls.
- Effectively excluding non-essential pedestrians from high risk areas (such as materials reception bays, loading areas and sorting/inspection operations) where vehicles operate, and provide safe, segregated protected zones/refuges for essential staff that can resist vehicle impact. In particular, consideration should be given to tipping of

random loads that are to be inspected in a segregated area with features that allow for safe visual inspection.

- Providing suitably marked, dedicated pedestrian walkways and crossing points, both inside and outside buildings.
- Avoiding mixing different types of traffic e.g. delivery vehicles, shovel loaders, forklifts and private vehicles.

Further general guidance on reducing the risks associated with workplace transport can be found at www.hse.gov.uk/workplacetransport and in *Workplace transport safety: an employers' guide* and *Waste management: workplace transport site safety information sheet*.

Wood pellets can give rise to wood dust which is flammable and explosive so any enclosed conveyers should have suitable explosion relief incorporated at appropriate intervals. This would also apply to any enclosed storage. Any electrical equipment should be suitably protected. (Dangerous Substances and Explosive Atmospheres Regulations 2002).

This development will attract the Construction (Design and Management) Regulations 2007. As the project will last more than 30 days notification on form F10 is required. This should be sent by the CDM coordinator as soon as practicable after they have been appointed by the client, to: F10 Scanning Centre, HSE c/o Central Dispatch, Redgrave Court, Merton Road, Bootle, Merseyside L20 7HS.

I hope this information is useful. HSE looks forward to receiving the formal s42 consultation from the promoter in due course when the plans are sufficiently developed.

Please note any further electronic communication on this project can be sent direct to the HSE designated e-mail account for NSIP applications the details of which can be found at the top of this letter. Alternatively hard copy correspondence should be sent to Miss Vilja Gatrell at:

4S3 Redgrave Court,
Merton Road,
Bootle
Merseyside
L20 7HS
Tel. 0151 951 4607

Yours sincerely

Penny Taylor
Risk Communications Policy Unit



IPC

Infrastructure Planning Commission,
Temple Quay House
Temple Quay
Bristol
BS1 6PN

- 5 OCT 2010

REF:

Health Protection Agency
Centre for Radiation,
Chemical and
Environmental Hazards

Chilton, Didcot
Oxfordshire OX11 0RQ

Tel +44 (0) 1235 822849
Fax: +44 (0) 1235 833891
www.hpa.org.uk/IPC

28th September 2010

Your Ref: 100917_EN010030_252740
Our Ref: TR_PO_100917_0059

Dear Mr Wilson

**PROPOSED KILLINGHOLME PORT AND BIOMASS PLANT ("the Project")
ABLE UK LTD ("the Applicant")**

Able UK Ltd has asked the Infrastructure Planning Commission (IPC) for its opinion ("scoping opinion") on the information to be provided in an environmental statement relating to a proposal to construct and operate a new quay with associated onshore facilities and a biomass power plant (collectively referred to as the Able Marine Energy Park, or AMEP) on the south bank of the River Humber, north of Immingham in North Lincolnshire. The request for a scoping opinion is a precursor to an intensive and detailed independent assessment of the environmental impact of the proposed development.

The HPA is a statutory consultee at the pre-application and application stages for nationally significant infrastructure projects (NSIP) "which are likely to involve chemicals, poisons or radiation which could potentially cause harm to people."¹ For those NSIP applications subject to Environmental Impact Assessment (EIA) the HPA is a consultation body under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

The IPC must therefore consult the HPA on the information that the HPA considers should be provided in the environmental statement (or confirm that the HPA has no comments) before the IPC adopts its scoping opinion.

The HPA's enclosed response focuses on health protection issues relating to chemicals and radiation. The scope of the HPA's response does not extend to wider health; these fall under the remit of other stakeholders. The following document outlines the information that the HPA considers should be provided in the environmental statement. The advice offered by the HPA is impartial and independent.

¹ Cited in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

As the proposed development involves the construction and operation of two wind turbines this letter is also accompanied by a HPA position statement on wind farms.

HPA recommendations regarding the scoping document

General approach

The EIA should give consideration to best practice guidance such as the Government's Good Practice Guide for EIA². It is important that the EIA identifies and assesses the potential public health impacts of the activities at, and emissions from, the installation. Assessment should consider the development, operational, and decommissioning phases.

The applicant should ensure that the EIA contains sufficient information for relevant authorities to be able to fully assess the potential impact of the development on public health. The HPA strongly recommends that a separate section be included in the environmental statement summarising the impact of the proposed development on public health: summarising risk assessments, proposed mitigation measures, and residual impacts. This section should include any information relating to health contained in other sections of the application (e.g. air quality, emissions to water, etc). Compliance with National Policy Statements' requirements and with relevant guidance and standards should be highlighted. The document should be reviewed by the IPC to ensure that the application is of sufficient quality to be submitted for consultation. The HPA considers that the onus should be on the applicant to gather and clearly present the information required and requested by statutory consultees and that it should not be the role of statutory consultees to undertake these assessments on the applicant's behalf. An expectation that statutory consultees will undertake these assessments is unrealistic; this would pose significant resource implications and would conflict with the consultee's position as an impartial and independent body.

Within the EIA the HPA would expect to see information about how the applicant would respond to accidents with potential off-site emissions e.g. flooding or fires, spills, leaks or releases off-site. Assessment of accidents should: identify all potential hazards in relation to construction, operation and decommissioning; include an assessment of the risks posed; identify risk management measures and contingency actions that will be employed in the event of an accident in order to mitigate off-site effects.

The EIA should include consideration of the COMAH Regulations (Control of Major Accident Hazards): both in terms of their applicability to the installation itself, and the installation's potential to impact on any nearby installations themselves subject to the COMAH Regulations.

Consideration of alternatives (including alternative sites, choice of process, and the phasing of construction) is widely regarded as good practice. Ideally, EIA should start at the stage of site and process selection, so that the environmental merits of practicable alternatives can be properly considered. Where this is undertaken, the main alternatives considered should be outlined in the environmental statement³.

² Environmental Impact Assessment: A guide to good practice and procedures - A consultation paper; 2006; Department for Communities and Local Government. Available from:

<http://www.communities.gov.uk/archived/publications/planningandbuilding/environmentalimpactassessment>

³DCLG guidance, 1999 <http://www.communities.gov.uk/documents/planningandbuilding/pdf/155958.pdf>

The following comments cover a range of issues that the HPA would expect to be addressed by the applicant. However this list is not exhaustive and the onus is on the applicant to ensure that the relevant public health issues have been identified and addressed.

Impacts arising from construction

It is recommended that any assessment of impacts arising from emissions due to construction considers potential impacts on all receptors and describes monitoring and mitigation during the construction phase. Construction will be associated with vehicle movements and cumulative impacts should be accounted for.

We would expect the applicant to follow best practice guidance during all phases from construction to decommissioning to ensure appropriate measures are in place to mitigate any potential impact on health from emissions (point source, fugitive and traffic-related). An effective Construction Environmental Management Plan (CEMP) (and Decommissioning Environmental Management Plan (DEMP)) will help provide reassurance that activities are well managed. The applicant should ensure that there are robust mechanisms in place to respond to any complaints of traffic related pollution, during both construction and operation of the facility.

Emissions to air

There are unlikely to be significant air quality impacts arising from installations which employ BAT and which meet regulatory requirements concerning emission limits and design parameters. However, the HPA has a number of comments regarding emissions to air in order that the EIA provides a comprehensive assessment of potential impacts.

The EIA should appraise and describe the measures that will be used to control both point source and fugitive emissions and demonstrate that health-based air quality standards will not be exceeded due to emissions from the installation. This should include consideration of any emitted pollutants for which there are no set emission limits.

When considering a baseline (of existing air quality) and in the assessment and future monitoring of impacts these:

- should include appropriate screening assessments and detailed dispersion modelling where this is screened as necessary
- should encompass all pollutants which may be emitted by the installation in combination with all pollutants arising from associated development and transport, ideally these should be considered in a single holistic assessment
- should consider the construction, operational, and decommissioning phases
- should consider the typical operational emissions and emissions from start-up, shut-down, abnormal operation and accidents when assessing potential impacts and include an assessment of worst-case impacts
- should fully account for fugitive emissions
- should include appropriate estimates of background levels
- should identify cumulative and incremental impacts (i.e. assess cumulative impacts from multiple sources), including those arising from associated development, other existing and proposed development in the local area, and new vehicle movements associated with the proposed development; associated transport emissions should include consideration of non-road impacts (i.e. rail, sea, and air)

- should include consideration of local authority, national network, and any local site-specific sources of monitoring data
- should compare predicted environmental concentrations to health based standards (such as UK Air Quality Standards and Objectives; Environmental Assessment Levels; and WHO Standards), this should include both short-term and long-term standards
- should identify and consider impacts on residential areas and sensitive receptors (such as schools, nursing homes and healthcare facilities) in the area(s) which may be affected by emissions, this should include consideration of any new receptors arising from future development
- should include consideration of impacts on existing areas of poor air quality e.g. existing or proposed local authority Air Quality Management Areas (AQMAs)
- should include modelling of appropriate meteorological data (i.e. come from the nearest suitable meteorological station and include a range of years and worst case conditions)
- should include modelling of local topography.

Whilst screening of impacts using qualitative methodologies is common practice (e.g. for impacts arising from fugitive emissions such as dust), where it is possible to undertake a quantitative assessment of impacts then this should be undertaken.

Emissions to water

When considering a baseline (of existing water quality) and in the assessment and future monitoring of impacts the points raised above regarding emissions to air should be considered. Furthermore, the EIA should:

- include assessment of potential impacts on human health and not focus solely on ecological impacts
- identify and consider all routes by which emissions may lead to population exposure (e.g. surface watercourses; sewers; geological routes etc.)
- assess the potential off-site effects of emissions to groundwater (e.g. on aquifers used for drinking water) and surface water (used for drinking water abstraction) in terms of the potential for population exposure
- include consideration of potential impacts on recreational users (e.g. from fishing, canoeing etc) alongside assessment of potential exposure via drinking water.

Emissions to ground

Existing and future contaminated land issues

We would expect the applicant to provide details of any hazardous contamination present on site (including ground gas) as part of the site condition report.

Emissions to and from ground should be considered in terms of the previous history of the site and the potential of the site, once operational, to give rise to issues. Public health impacts associated with contaminated land and/or the migration of material off-site should be assessed and the potential impact on nearby receptors and control and mitigation measures should be outlined.

Relevant areas outlined in the Government's Good Practice Guide for EIA include:

- effects associated with land contamination that may already exist
- effects associated with the potential for polluting substances that are used (during construction / operation) to cause new ground contamination issues on a site, for example introducing / changing the source of contamination

- impacts associated with re-use of soils and waste soils, for example, re-use of site-sourced materials on-site or offsite, disposal of site-sourced materials offsite, importation of materials to the site, etc.

Waste

The EIA should demonstrate compliance with the waste hierarchy (e.g. with respect to re-use, recycling or recovery and disposal).

For wastes delivered to the installation: [include for installations which accept waste]

- the EIA should consider issues associated with waste delivery and acceptance procedures (including delivery of prohibited wastes) and should assess potential off-site impacts and describe their mitigation.

For wastes arising from the installations the EIA should consider:

- the implications and wider environmental and public health impacts of different waste disposal options
- disposal route(s) and transport method(s) and how potential impacts on public health will be mitigated.

Biomass

Biomass is a relatively new cargo for many shipping and freight companies and the transportation and storage of biomass is an emerging area. As organic material releases heat when it degrades it can self-combust, leading to fires and associated public health issues. It is recommended that the Environmental Statement includes a review of potential impacts associated with the transport and storage of biomass and the measures that will be used to control these impacts.

Electromagnetic fields

There is a potential health impact associated with the electric and magnetic fields around substations and the connecting cables or lines. The following information provides a framework for considering the potential health impact.

The HPA recommends the adoption in the UK of the EMF exposure guidelines published by the International Commission on Non-ionizing Radiation Protection (ICNIRP) on limiting public exposure to electromagnetic fields⁴

The ICNIRP guidelines are based on the avoidance of known adverse effects of exposure to electromagnetic fields at frequencies up to 300 GHz (gigahertz), which includes 50 Hz electric and magnetic fields associated with electricity transmission. Further clarification on advice on exposure guidelines for 50 Hz electric and magnetic fields is provided in the following note on the HPA website⁵

HPA notes the current Government policy is that the ICNIRP guidelines are implemented in line with the terms of the European Recommendation⁶.

⁴ <http://www.hpa.org.uk/Publications/Radiation/NPRBArchive/DocumentsOfTheNRPB/Absd1502/>

⁵ http://www.hpa.org.uk/webw/HPAweb&HPAwebStandard/HPAweb_C/1195733805036

⁶ http://www.dh.gov.uk/en/PublicHealth/Healthprotection/DH_4089500

There is concern about the possible effects of long-term exposure to electromagnetic fields, including possible carcinogenic effects at levels much lower than those given in the ICNIRP guidelines. It was concluded that the studies that suggest health effects, including those concerning childhood leukaemia, could not be used to derive quantitative guidance on restricting exposure. However, the results of these studies represented uncertainty in the underlying evidence base, and taken together with people's concerns, provided a basis for providing an additional recommendation for Government to consider the need for further precautionary measures, particularly with respect to the exposure of children to power frequency magnetic fields.

The Stakeholder Advisory Group on ELF EMFs (SAGE) was then set up to take this recommendation forward, explore the implications for a precautionary approach to extremely low frequency electric and magnetic fields (ELF EMFs), and to make practical recommendations to Government. In the First Interim Assessment of the Group, consideration was given to mitigation options such as the 'corridor option' near power lines, and optimal phasing to reduce electric and magnetic fields

SAGE has published a Second Interim Assessment which addresses electricity distribution systems up to 66 kV⁷.

The Agency has given advice to Health Ministers on the First Interim Assessment of SAGE regarding precautionary approaches to ELF EMFs and specifically regarding power lines and property, wiring and electrical equipment in homes⁸

The evidence to date suggests that in general there are no adverse effects on the health of the population of the UK caused by exposure to ELF EMFs below the guideline levels. The scientific evidence, as reviewed by HPA, supports the view that precautionary measures should address solely the possible association with childhood leukaemia and not other more speculative health effects. The measures should be proportionate in that overall benefits outweigh the fiscal and social costs, have a convincing evidence base to show that they will be successful in reducing exposure, and be effective in providing reassurance to the public.

The Government response to the SAGE report is given in the written Ministerial Statement by Gillian Merron, the Minister of State, Department of Health, published on 16th October 2009⁹

The HPA considers that the onus is on the applicant to conduct the assessment of compliance with the above advice and policy, and to gather and present the information clearly, leaving no additional analysis necessary on the part of the HPA. The assessment should be clearly laid out, either as an identified section of a report which can be read in isolation or as a separate report. Compliance with the ICNIRP guidelines should be highlighted. If it is considered not practicable for compliance to be achieved at all locations accessible to the public, the report should provide a clear justification for this. The report should include an appropriate risk assessment showing that consideration has been given to mitigation measures for acute risks. In relation to possible long-term health effects and precaution, the report should include a summary of compliance with HPA advice and Government policy.

Liaison with other stakeholders, comments should be sought from:

⁷ <http://sagedialogue.org.uk/> (go to "Document Index" and Scroll to SAGE/Formal reports with recommendations)

⁸ http://www.hpa.org.uk/webw/HPAweb&HPAwebStandard/HPAweb_C/1204276682532?p=1207897920036

⁹ <http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm091016/wmstext/91016m0001.htm>

- the local authority for matters relating to noise, odour, vermin and dust nuisance
- the local authority regarding any site investigation and subsequent construction (and remediation) proposals to ensure that the site could not be determined as 'contaminated land' under Part 2A of the Environmental Protection Act
- the Food Standards Agency for matters relating to the impact on human health of pollutants deposited on land used for growing food/ crops
- the Environment Agency for matters relating to flood risk and releases with the potential to impact on controlled waters

Environmental Permitting

Amongst other permits and consents, the development will require an environmental permit from the Environment Agency to operate (under the Environmental Permitting (England and Wales) Regulations 2007). Therefore the installation will need to comply with the requirements of best available techniques (BAT). The HPA is a consultee to bespoke environmental permit applications and will respond separately to any such consultation.

Yours sincerely

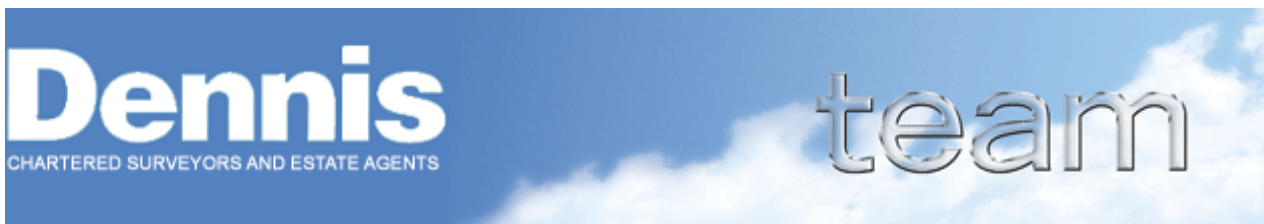


Mrs Mary Morrey

Deputy Director, Centre for Radiation, Chemicals and Environmental Hazards

CRCE.IPCConsultations@HPA.org.uk

From: [John Dennis](#)
To: [IPC Scoping Opinion](#);
Subject: FAO David Price - re KILLINGHOLME PORT AND BIOMASS PLANT
Date: 15 October 2010 17:30:41



John P. Dennis & Son Ltd.
21 St. Augustines Gate, Hedon HU12 8EU
Tel: (01482) 897129 Fax: (01482) 891440
E-mail: john@dennisestateagents.co.uk
www.dennisestateagents.co.uk

Dear Mr Price.

PROPOSED KILLINGHOLME PORT AND BIOMASS PLANT - ABLE UK LTD.
YOUR REF 100917_EN010030_252740

I send this e-mail on behalf of the Hedon Town Council as I am informed the closing date for responding to your letter of 17th September is today, and that the deadline will be strictly applied. Please therefore excuse this hurried approach. Would you please confirm that you have received this message?

The town council met last night to discuss this issue and I was asked to take advice from a technical advisor and to respond to you with his comment.

Our advisor, Mr Malcolm Lynn points out that the document you have given us the link to discusses air quality in some detail, but does not seem interested in any impact that might be felt on the North Bank of the Humber Estuary, even though the communities over here, including the town of Hedon are within only 3 or 4 miles of the proposed Biomass Plant. In particular the document points out that the potential impact on the north bank will not be considered as part of the study.

This is patently incorrect. The River Humber whilst being a significant geographical feature, is not a physical barrier that will prevent air pollution being carried those few miles.

The report comments "the effects of plume rise, complex terrain, buildings and coastlines to be accounted for when making predictions" but it does not specifically mention that the model is applicable to modelling dispersions over large areas of water - such as the Humber estuary.

Hedon Town Council therefore asks that the atmospheric dispersion modelling should specifically consider the potential impact on air quality for the communities on the north bank of the Humber and requests an assurance that the ADMS model is appropriate for predicting dispersion when there is a large body of water downwind.

Many thanks. This message will be confirmed within a few days in writing by the Town Clerk.

Yours

John P. Dennis

Cllr. John P. Dennis F.R.I.C.S

Deputy Chair of Planning
Hedon Town Council

teamprop.co.uk

Registered in England & Wales No. 1221111



This e-mail is confidential and may be privileged. It may be read, copied and used only by the intended recipient. If you have received it in error, please contact the sender immediately by return e-mail or by telephoning (UK) 01482 897129 Please then delete the e-mail and do not disclose its contents to any person. We believe, but do not warrant, that this e-mail and any attachments are virus free. You should take full responsibility for virus checking.

www.e-mediasolutions.co.uk

This email was received from the INTERNET and scanned by the Government Secure Intranet anti-virus service supplied by Cable&Wireless Worldwide in partnership with MessageLabs. (CCTM Certificate Number 2009/09/0052.) In case of problems, please call your organisation's IT Helpdesk. Communications via the GSI may be automatically logged, monitored and/or recorded for legal purposes.

Correspondents should note that all communications to Department for Communities and Local Government may be automatically logged, monitored and/or recorded for lawful purposes.

From: [Gaunt, Daniel](#)
To: [IPC Scoping Opinion](#);
Subject: Proposed Killingholme Port and Biomass Plant
Date: 28 September 2010 12:34:32
Attachments: [TA Review Letter.pdf](#)

Attn: Steve Edwards and Mark Wilson

Thank you for consulting the Highways Agency in respect of the EIA scoping for the above.

The Highways Agency has, in consultation with the developer, provided comments on the necessary content of a transport assessment and travel plan for the proposed development, which will be sufficient to address the traffic impacts of the proposed development. A copy of the advice provided to us, which has been forwarded to the developer and the local planning authority, is attached.

Aside from this guidance, the Highways Agency has an interest in ensuring that the continued safe and effective operation and environment of the A160. The environmental statement should take this into account, specifically when considering air quality, vehicle-related carbon emissions and road safety.

The developer is being provided with access to information held by the Highways Agency related to current levels of traffic, and should contact me for any further information they may require.

Please will you direct any further correspondence related to this IPC application to me, either by email or at the address below.

Regards

Daniel Gaunt, Network Planning Manager (Y&NE)

Highways Agency | Lateral | 8 City Walk | Leeds | LS11 9AT

Tel: +44 (0) 113 2836686 | **Fax:** + 44 (0) 113 2835367 | **Mobile:** + 44 (0) 7770 700364

Web: <http://www.highways.gov.uk>

GTN: 5173 6686

Safe roads, Reliable journeys, Informed travellers
Highways Agency, an Executive Agency of the Department for Transport.

Correspondents should note that all communications to Department for Communities and Local Government may be automatically logged, monitored and/or recorded for lawful purposes.

Development Control Team
Highways Agency
Tees Wing
Lateral
8 City Walk
Leeds
LS11 9AT

For the attention of Daniel Gaunt

14th September 2010

Our ref: CTHAEB760
Your ref: YH46.1 10/11-Hal

Dear Daniel

Able Marine Energy Park, Land at Killingholme

Halcrow Group Limited (Halcrow) in the role of Call Off Consultant to the Highways Agency (the Agency), has been commissioned to undertake a review of Able UK's proposals for the Marine Energy Park, Killingholme, North Lincolnshire. This report has been produced by Halcrow as part of a contract placed by the Department for Transport (DfT); the views expressed are not necessarily those of the DfT.

This report has been prepared to inform the Agency of the acceptability of the work undertaken and the assumptions made by the developer's consultants, JMP Consulting Ltd (JMP), in terms of highways and transportation considerations. JMP has produced a Scoping Report, referenced NEA1114, and dated 26th August 2010. Halcrow are reviewing the JMP Scoping Report on behalf of the Highways Agency (HA). This letter presents our findings and has been prepared with reference to Guidance on Transport Assessments (GTA) and DfT Circular 02/07 which is the latest Government guidance.

Site Location and Proposed Development

The proposed development site is located adjacent to the southern shore of the Humber Estuary, and is accessed via Rosper Road which provides direct access to the A160 and from there the A180, both of which are part of the Strategic Road Network (SRN). The local highway authority is North Lincolnshire Council (NLC).

The Scoping Report states that the proposed development comprises the following:

- Existing terrestrial land – 247ha;
- Existing intertidal land – 26.5ha;

- Existing sub tidal area – 31.2ha

It has been noted that the existing terrestrial area includes 115ha of land that has existing planning consent from NLC for port related storage and a further application is likely to be consented shortly. Although JMP does not have full details of the development proposals, it is currently proposed that there will be 150,000sqm of manufacturing floor space and the remainder of the site will comprise;

- External storage areas for wind turbine components including towers, blades and nacelles;
- Employee car parking; and
- Ecological mitigation.

The provision of car parking and cycle parking spaces should be included in the TA and be in line with PPG13 and NLC parking standards.

It is expected that the total number of employees on site will be approximately 5,000.

Study Area

The Scoping Report refers to the study area, although it is not identified within the report.

Planning Policy

The Policy section of the Scoping Report states that the TA will identify relevant local and national policies. This is considered acceptable.

Baseline Traffic Data

The Scoping Report identifies that surveys have been undertaken to update the existing A160/A180 SATURN model and it has been agreed that it would be appropriate for the TA to use this baseline data for the relevant junctions. The surveys included Fully Classified Turning Counts, Automatic Traffic Counts (ATC), Automatic Number Plate Recognition (ANPR) surveys and Journey Time Surveys. However, the scoping report does not state when these surveys were updated. In order to agree that these surveys are acceptable the survey dates should be provided.

The classified turning count sites chosen in close proximity to the SRN include;

- Site 1: A160/A180
- Site 2: A1077/A160 East of Ulceby;
- Site 3: A160 Ulceby Road/Top Road/A160 Humber Road/Habrough/Road Roundabout;
- Site 4: A160 Humber Road/Town Street;
- Site 5: A160 Humber Road Junction/Eastfield Road;
- Site 6: A160 Humber Road/Humber Road/A1173 Manby Road;
- Site 10: A180/A1173 Roundabout;



Figure 1: Classified Turning Counts (Source: Pell Frischmann)

In addition, further classified turning counts were undertaken at the following locations;

- Site 19: First minor junction west bound of Manby Road;
- Site 20: Second junction west bound of Manby Road;
- Site 21: Third minor junction west bound of Manby Road;
- Site 22: Fourth minor junction west bound of Manby Road;
- Site 23: Fifth minor junction west bound of Manby Road;

At section 3.6 of the Scoping Report it refers to ANPR data, however the heading for this section refers to it Classified Turning Counts. It is assumed that this is a typo and does refer to CTC. This should be confirmed by JMP.

The ATC sites in close proximity to the SRN include;

- ATC 4: A160 between A180 and Ulceby Road;
- ATC 5: A160 between Ulceby Road and Habrough Roundabout;
- ATC 6: A160 between Habrough Roundabout and Eastfield Road;
- ATC 7: A160 between Eastfield Road and Manby Road

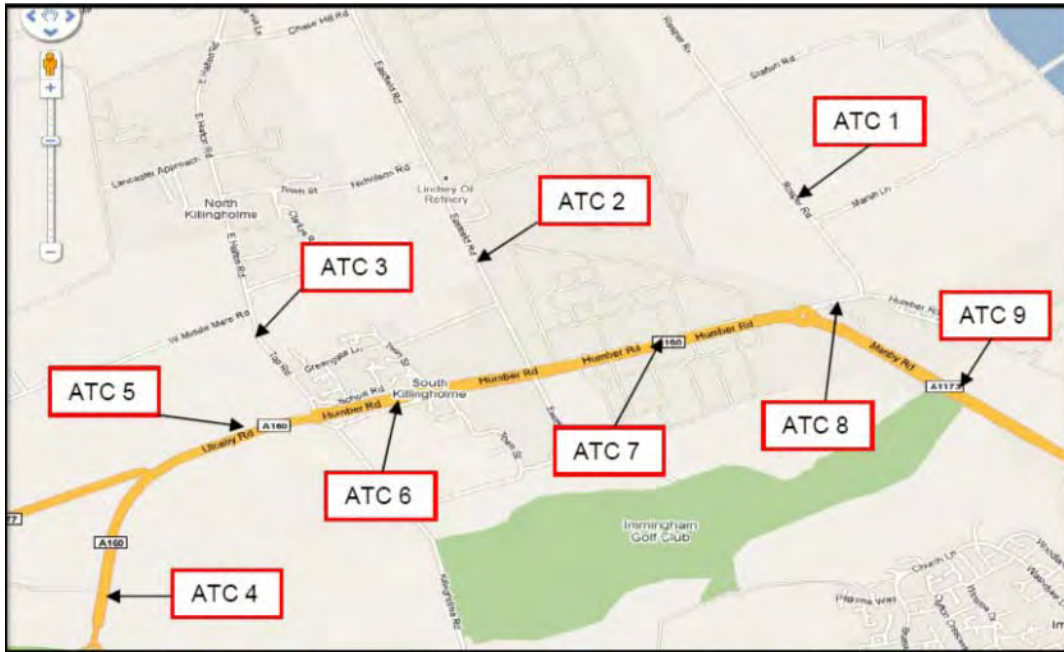


Figure 2: Automatic Traffic Counts (Source: Pell Frischmann)

These were surveyed for a two week period, including the day of the classified counts.

The ANPR sites in close proximity to the SRN include;

- Cameras 9 and 10: A160 south of A1077 Ulceby/A160 junction

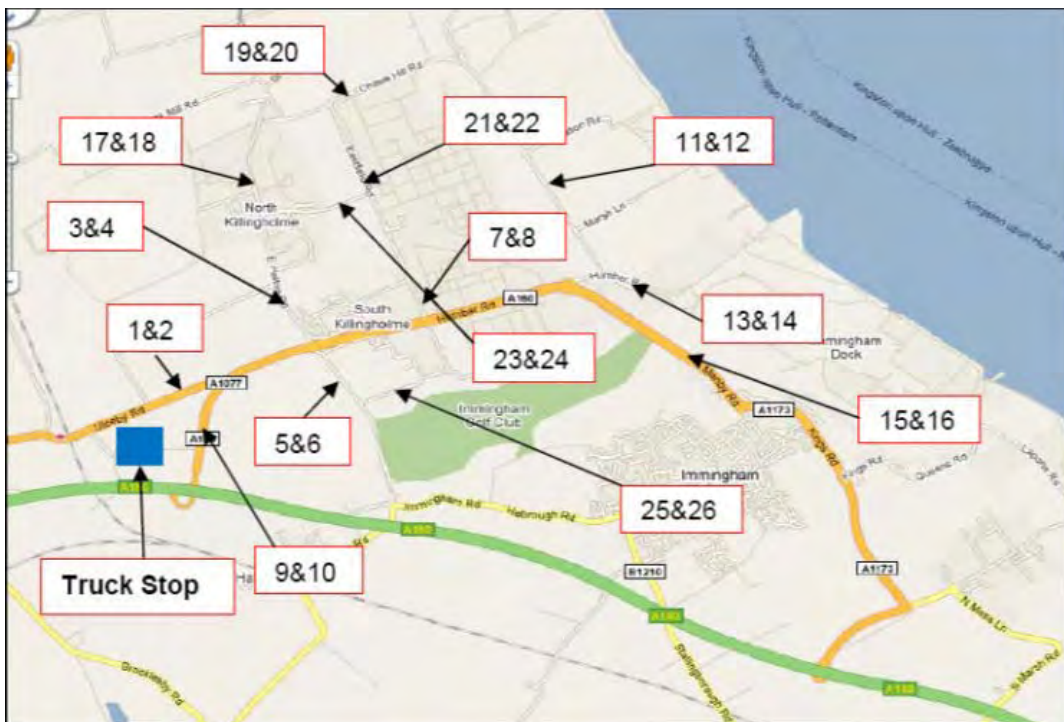


Figure 3: Automatic Number Plate Recognition Sites (Source: Pell Frischmann)

Again, the dates of the survey are not presented.

Traffic data which could be provided by NLC is also identified, however it is acknowledged that this data may not be required as a result of the update surveys undertaken for the SATURN model. If this data is required, those surveys which were undertaken in 2003/04 are too old and therefore would not be acceptable to use in the TA.

It is agreed that there is a lot of data pertaining to the site, however the extent of the data and whether or not further data is required at junctions further afield, cannot be determined until the trip generation and distribution is agreed and it is therefore not possible to identify the extent of junction modelling required.

Road Safety

The Scoping Report states that accident data will be obtained for the key study area however this area has not been identified. As set out earlier, until trip generation and distribution is agreed, the study area is not known.

The Personal Injury Accident (PIA) data should be included in the TA for the latest 5 year period.

Committed Developments

The Scoping Report identifies three committed developments which may affect traffic flows and therefore will be included in the assessment, these are;

- Able Humber Port Northern Area (PA/2009/0600)
- URSA factory (PA/2008/0988)
- Bioethanol Plant (PA/2006/1880)

Information relating to these developments in terms of when they were approved is required, particularly for the bioethanol plant in 2006, as its planning permission may have expired.

Trip Generation, Modal Splits and Distribution

Section 3.20 suggests that when calculating trip generation, an element of netting off may be appropriate during the operational phase due to the existing uses on the site that are to be located to another site. In order to verify this, it is requested that the location of the transfer site is identified and whether this already has an existing use.

It is considered acceptable that journey to work data will be adjusted using local assumptions to determine baseline modal splits.

The Scoping Report states that residual trips will be distributed to the highway network using a refined gravity model which will be adjusted using assumptions based on local recruitment policies. For the

construction phase, assumptions relating to the number of imported construction workers and the location of guest houses and B&Bs will be applied.

The Scoping Report also sets out that the distribution onto the highway network will be done within the SATURN model. It is assumed that the adjusted gravity model will be used to populate the OD matrix. The assumptions on employee trip distribution are in line with GTA and therefore considered acceptable.

Opening and Assessment Years

The Scoping Note states that the model scenarios have been prepared and are currently being updated by Pell Frischmann. The models will assess;

- base year 2010;
- pessimistic development for 2015 and 2030;
- most likely development for 2015 and 2030; and
- optimistic development for 2015 and 2030.

Clarification on what is meant by 'pessimistic' 'most likely' and 'optimistic' is requested.

The HA suggested that the optimistic scenario may not be appropriate for assessing the impact of the Marine Energy Park and instead the agreed committed developments and some background growth could be applied, this is considered acceptable.

The Scoping Report sets out scenarios both with and without the A160 highway improvements will be assessed. As there is no commitment at present on the A160 improvement scheme, it is considered acceptable that the model will assess scenarios with and without the highway improvements.

No information on development phasing is provided. Confirmation of the likely phasing and build out periods for each phase should be provided to confirm that the assessment year is appropriate.

Junction Capacity Assessments

The scoping report states that additional junction modelling may be required at a local level through the use of PICADY / ARCADY / LINSIG. This would be an acceptable method of assessing additional SRN junctions outside of the SATURN model should there be a need to assess them.

Mitigation

In order to mitigate the effects of the development on junctions where there is a material impact, the scoping report states that sustainable transport measures will be considered as a first point of call to reduce the residual trips on the network. This is inline with Circular 02/07 and is therefore considered acceptable.

The Scoping Report also comments that physical highway schemes will be put in place along the A160 if the improvement scheme does not go ahead and on other junctions on the local highway network that are not included in the A160 improvement scheme. The Scoping Report identifies which junctions along the A160 may require improvements, mitigation should be provided at any junctions that requires it.

Sustainable Transport

The Scoping Note states that a Travel Plan (TP) will be produced alongside the TA and will identify sustainable transport measures which can be used to assist in trip reductions. The TA will need to provide a summary of the existing accessibility to the site by sustainable modes of transport including walking, cycling & bus uses as stated in the TP.

Conclusions

Halcrow are unable to advise the Agency on the area impact of the proposed development until the trip generation and distribution is known. In addition, JMP should provide the following information;

- Provide information on the study area or methodology for determining the study area;
- Provide dates for the traffic counts undertaken for the SATURN model;
- Clarify text at section 3.6;
- Provide further information on committed developments;
- Identify the location of the site the existing development will be moving to;
- Clarification on what is meant by 'pessimistic' 'most likely' and 'optimistic' is required; and
- Provide information on development phasing.

In addition, the contents page is numbered incorrectly.

I trust that the above comments are appropriate, however, if you have any queries please contact Richard Edwards or myself.

Yours sincerely



Nikki Callaghan

Consultant

Halcrow Group Limited

Arndale House
Otley Road

Headingley

Leeds

LS6 2UL

Tel: +44(0)1132208154 (direct)

Tel: +44(0)1132208220

Fax: +44(0)1132742924

Email: CallaghanNM@halcrow.com

www.halcrow.com

From: [Peach Chris](#)
To: [IPC Scoping Opinion;](#)
Subject: HCC Scoping Opinion for ABLE Uk Ltd - Killingholme Biomass Plant and Port - FaO Mark Wilson
Date: 05 October 2010 14:30:42
Attachments: [HCC Scoping Opinion for ABLE Uk Ltd.doc](#)

Please see attached.

Chris Peach
Principal Development Control Officer
Development and Renewal Services
Hull City Council
Kingston House
Bond Street
Kingston-upon-Hull
HU1 3ER
Tel. (01482) 612734
Fax (01482) 612350
Email: Chris.Peach@hullcc.gov.uk
Web: <http://www.hullcc.gov.uk>

Hull City Council recognises the importance of delivering high quality services that meet your needs. How you see the services provided by us determines whether we succeed or fail. As part of our pursuit of Service Excellence, we want to know your views of the services provided - whether they are good or bad. If you have a suggestion that may improve the services we provide let us know. All of this information will help us to provide services that:

- **Are reliable**
- **Meet your needs**
- **Represent value for money**

We recognise that things do go wrong from time to time, and when they do, we need to know about them. Similarly, when a particular service that we provide is working well, and you are satisfied with it - we want to know. This is so that we can share this good practice for the benefit of others.

If you require a Customer Feedback Form then please contact Bev Procter tel. (01482) 612197.

This transmission is intended for the named addressee(s) only. Unless you are the named addressee (or authorised to receive it for the addressee) you may not copy or use it, or disclose it to anyone else. If you have received this transmission in error please notify the sender immediately. All transmissions may be subjected to recording and/or monitoring in accordance with relevant legislation.

This footnote also confirms that this email message has been swept for the presence of computer viruses.

Website: www.hullcc.gov.uk Tel: 01482 300 300 Text phone: 01482 300 349

This email was received from the INTERNET and scanned by the Government Secure Intranet anti-virus service supplied by Cable&Wireless Worldwide in partnership with

MessageLabs. (CCTM Certificate Number 2009/09/0052.) In case of problems, please call your organisation's IT Helpdesk. Communications via the GSi may be automatically logged, monitored and/or recorded for legal purposes.

Correspondents should note that all communications to Department for Communities and Local Government may be automatically logged, monitored and/or recorded for lawful purposes.

Scoping Opinion

Proposal: - Biomass Plant and Port

Location: - Killingholme

Date of Receipt of Scoping Opinion Request: - 17th September, 2010

Applicant: - ABLE UK Ltd, via the Infrastructure Planning Commission (IPC)

In accordance with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 Hull City Council hereby has adopted the following Scoping Opinion with regard to the above proposal.

Taking into account the following factors: -

the specific characteristics of the proposed development;

the specific characteristics of the type of development; and

the environmental features likely to be affected by the development:

The scoping opinion format as suggested is considered acceptable and the headings proposed are considered appropriate.

Simon Group plc

Clough Lane
North Killingholme
North Lincolnshire
DN40 3JP

Telephone 01469 542196
Facsimile 01469 541473



18 October 2010

Infrastructure Planning Commission
Temple Quay House
Temple Quay
Bristol
BS1 6PN

IPC
29 OCT 2010
REF: _____

Your reference: 100923_EN010030_260133

For the attention of Mark Wilson

Dear Sirs

**Proposed Killingholme Port and Biomass Plant
Able UK Limited**

I refer to the above pre-application Environmental Scoping Report submitted to the Infrastructure Planning Commission in September 2010.

I write to formally register the interest of Simon Group plc and its subsidiary company Humber Sea Terminal Limited in the application and request that Humber Sea Terminal Limited is included within future consultation exercises that relate to this proposal. Humber Sea Terminal is a neighbouring land owner and is a port operator as well as a statutory harbour authority with responsibility, amongst other things, for the safe navigation and berthing of certain river traffic. I attach a copy of a plan setting out our ownership for your use and information – Humber Sea Terminal occupies the area highlighted orange.

I wish to ensure that Humber Sea Terminal Limited is fully engaged with the pre-application and application process in order that our interests can be protected and opinions taken into account during the determination of any future applications. I am keen to ensure that neither the security of our site nor the safe navigation and berthing of river traffic are compromised as a result of the proposal and that ecological issues are fully taken into account. The above is not exhaustive but represents our immediate concerns with regard to the proposed application and is provided without prejudice to any future representations.

I would be grateful if you could confirm receipt of this letter and confirm that you have formally registered the interest of Humber Sea Terminal Limited in the proposals going forward.

Please do not hesitate to contact me if you have any queries.

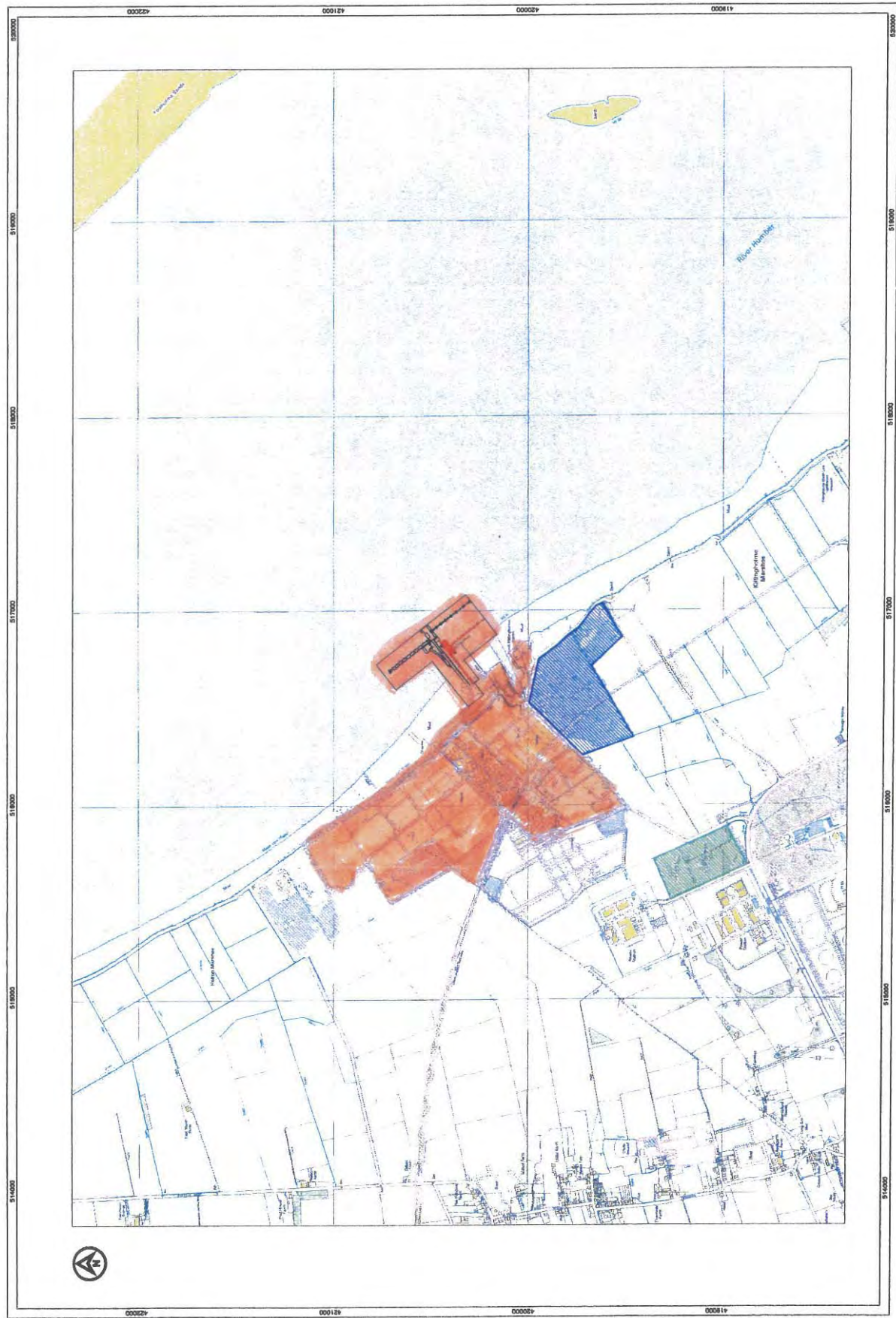
Yours faithfully

A handwritten signature in blue ink, appearing to read "PA Grout", written over a horizontal line.

PA Grout

Company Secretary, Simon Group plc and Humber Sea Terminal Limited

-  SITE OF SPECIAL SCIENTIFIC INTEREST
-  SITE OF IMPORTANCE FOR NATURE CONSERVATION
-  LOCAL NATURE RESERVE



SOURCE
 Based on the following Survey Map Sheets: N1288
 N1289 (revised 8 Aug 2002) and T0119:
 N1185 (revised 20 April 2001) and T0119:
 N1186 (revised 20 April 2001) and T0119:
 Reading Road, Evesham, Warwick, B827 0DF.

INFORMATION

NO	DATE	DESCRIPTION	BY	CHK	APP
1	18/10/05	GENERAL REVIEW	MC	MC	MC
0	17/10/05	FOR INFORMATION	MC	MC	MC



PROJECT:
 HUMBER SEA TERMINAL

DRAWING TITLE:
 SITE LOCATION PLAN

ROYAL HARBORING
 HARBORING SERVICES
 HMP/CALTE
 1000
 1000
 1000
 1000

ROYAL HARBORING
 HARBORING SERVICES
 HMP/CALTE
 1000
 1000
 1000
 1000

DATE: 17/10/05
DATE: 17/10/05
DATE: 17/10/05
DATE: 17/10/05

SCALE: 1:110000
SCALE: 1:110000
SCALE: 1:110000
SCALE: 1:110000

DRAWING No.: SR2488/056
DRAWING No.: SR2488/056
DRAWING No.: SR2488/056
DRAWING No.: SR2488/056

REVISION:
 1

From: [Wendy Dalton](#)
To: [IPC Scoping Opinion](#);
Subject: Killingholme Port and Biomass Plant
Date: 22 September 2010 15:05:08

Dear Mr Price

Thanks you for your letter dated 17 September 2010 regarding the proposed Killingholme Port and Biomass Plant infrastructure planning regulation 2009 SI 2263.

The Joint Nature Conservation Committee (JNCC) is the statutory adviser to Government on UK and international nature conservation. Its work contributes to maintaining and enriching biological diversity, conserving geological JNCC co-ordinates nature conservation advice at a UK level and advises UK Government on scientific and policy matters relating to nature conservation internationally. Within each UK country the separate statutory bodies are responsible for nature and landscape conservation these being: Natural England (NE), Countryside Council for Wales (CCW), Scottish Natural Heritage (SNH) and the Council for Nature Conservation and the Countryside, Northern Ireland (CNCCNI).

JNCC has responsibility for the provision of nature conservation advice in the offshore area. 'Offshore' is defined as beyond 12 nautical miles (nm) from the coastline to the extent of the United Kingdom Continental Shelf (UKCS). Within territorial limits (<12 nm) nature conservation advice is the responsibility of the relevant country agencies.

This development proposal is not located within the offshore area, does not have any potential offshore nature conservation issues and is not concerned with nature conservation at a UK level; therefore JNCC does not have any comments to make on the consultation.

With kind regards

Yours sincerely

Mrs Wendy Dalton
Business Support Officer
JNCC
Monkstone House
City Road
Peterborough
PE1 1JY

Tel: 01733 866884
E-mail: wendy.dalton@jncc.gov.uk

features and sustaining natural systems.

JNCC delivers the UK and international responsibilities of the Council for Nature Conservation and the Countryside, the Countryside Council for Wales, Natural England and Scottish Natural Heritage.

- please consider the environment - do you really need to print this email?

The Joint Nature Conservation Committee (JNCC) is the statutory adviser to Government on UK and international nature conservation, on behalf of the Council for Nature Conservation and the Countryside, the Countryside Council for Wales, Natural England and Scottish Natural Heritage. Its work contributes to maintaining and enriching biological diversity, conserving geological features and sustaining natural systems.

JNCC SUPPORT CO. Registered in England and Wales, company no. 05380206.
Registered office: Monkstone House, City Road, Peterborough, Cambridgeshire PE1 1JY

This message has been checked for all known viruses by JNCC delivered through the MessageLabs Virus Control Centre.

This email was received from the INTERNET and scanned by the Government Secure Intranet anti-virus service supplied by Cable&Wireless Worldwide in partnership with MessageLabs. (CCTM Certificate Number 2009/09/0052.) In case of problems, please call your organisation's IT Helpdesk.
Communications via the GSI may be automatically logged, monitored and/or recorded for legal purposes.

Correspondents should note that all communications to Department for Communities and Local Government may be automatically logged, monitored and/or recorded for lawful purposes.

Mr M Wilson
Infrastructure Planning Commission
Temple Quay House
2 The Square
Bristol
BS1 6HA

14 October 2010

Your Ref: 100917_EN010030_252740

Dear Mr Wilson

Proposed Killingholme Port and Biomass Plant

Thank you for your letter dated 17th September 2010 inviting Maritime & Coastguard Agency (MCA) to comment on the application for the proposed Killingholme Port and Biomass Energy Plant. For the avoidance of doubt, Hartnell Taylor Cook LLP are the retained estates advisors to MCA and we respond on their behalf.

It is not clear from the information provided whether this will require consent under the Coast Protection Act and Food and Environment Protection Act. We would expect the developer to contact the Marine Management Organisation for more information. At this stage MCA can only generalise and point the developers in the direction of the Port Marine Safety Code (PMSC). They will need to liaise and consult with the local Harbour Authority to develop a robust Safety Management System (SMS) for the project under this code.

In this specific case the PMSC is relevant as the development may constrict the navigation channel causing a pinch point at this section of the river. The MCA would advise that the developers consult specifically with the local Harbour Authority on this potential hazard to navigation, as vessels transit the site. A quantitative risk assessment will determine if any mitigation measures / changes to construction will be required to avoid grounding / collisions in the vicinity of the development.

The sections that MCA feel cover Navigational safety under the PMSC and its Guide to Good Practice are as follows:

From the Guide to Good Practice, section 6 Conservancy, a Harbour Authority has a duty to conserve the harbour so that it is fit for use as a port, and a duty of reasonable care to see that the harbour is in a fit condition for a vessel to use it. Section 6.7 Regulating harbour works covers this in more detail and we detail an extract below from the Guide to Good Practice.



6.7 Regulating harbour works

6.7.1 Some harbour authorities have the powers to license works where they extend below the high watermark, and are thus liable to have an effect on navigation. Such powers do not, however, usually extend to developments on the foreshore.

6.7.2 Some harbour authorities are statutory consultees for planning applications, as a function of owning the seabed, and thus being the adjacent landowner. Where this is not the case, harbour authorities should be alert to developments on shore that could adversely affect the safety of navigation. Where necessary, consideration should be given to requiring the planning applicants to conduct a risk assessment in order to establish that the safety of navigation is not about to be put at risk. Examples of where navigation could be so affected include:

- high constructions, which inhibit line of sight of microwave transmissions, or the performance of port radar, or interfere with the line of sight of aids to navigation;
- high constructions, which potentially affect wind patterns; and
- lighting of a shore development in such a manner that the night vision of mariners is impeded, or that navigation lights, either ashore and onboard vessels are masked, or made less conspicuous.

There is a British Standards Institution publication on Road Lighting, BS5489. Part 8 relates to a code of practice for lighting which may affect the safe use of aerodromes, railways, harbours and navigable inland waterways.

Following on from the scoping study an application for a Harbour Revision Order (HRO) may be required. If this is necessary, the MCA will need to be consulted again on any revisions required to enhance the initial conditions. Possible new conditions will be developed from the findings of a full Environmental Impact Assessment (EIS) report on the project.

We trust the above will be of assistance however, please do not hesitate to contact the undersigned should you require clarification on any point.

Yours sincerely

Mansel Hughes MRICS
Senior Surveyor
Direct Dial: 0117 9464505
E-Mail: mansel.hughes@htc.uk.com



marine
management
organisation

Marine Environment Team
PO BOX 1275
Newcastle upon Tyne
NE99 5BN

allyn.hogg@marinemanagement.org.uk
0191 376 2563

Infrastructure Planning Commission
Temple Quay House
Temple Quay
Bristol
BS1 6PN
FAO – Mark Wilson

Your ref: 100917_EN010030_252740

Our ref: 20102372

Date: 15 October 2010

Dear Mark

INFRASTRUCTURE PLANNING COMMISSION (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2009– KILLINGHOLME PORT & BIOMASS PLANT

I am writing in reply to your request dated 17 September 2010 for a formal scoping opinion in accordance with the Infrastructure Planning Commission (Environmental Impact Assessment) Regulations 2009.

The Planning Act and the Infrastructure Planning Commission's (IPC) role cover projects at sea as well as on land. These projects are likely to also need a licence for articles or substances deposited in the sea under Part II of the Food and Environment Protection Act 1985 (FEPA) to protect the marine environment, human health and to minimise interference with other uses of the sea and/or consent under Part II of the Coast Protection Act 1949 (CPA) to ensure safety of navigation. These consents may be deemed by the IPC as part of the Development Consent Order (DCO). From spring 2011, such projects will require a marine licence which will supersede the need for both FEPA and CPA consents. DCO's issued by the IPC under the Planning Act may include a deemed marine licences for the projects that fall under its responsibility. As such the MMO is a statutory consultee for the IPC for marine projects.

The MMO will enforce the parts of a DCO that relate to a deemed FEPA licence and CPA consent or marine licence and will be responsible for dealing with any breaches of any conditions of those approvals.

This MMO has licensing responsibilities and other marine management functions it carries out such as planning, nature conservation and fisheries regulation and enforcement. This includes acting as a consultee on applications for DCO. The MMO is responsible for licensing functions in the English inshore and UK offshore waters (other than Scottish offshore waters).

The MMO will advise the IPC on the marine impacts of any large infrastructure project that has a possible impact on the marine area or those who use it. The consents issued by the IPC may include conditions (referred to as "requirements" in the Planning Act) to ensure the safety of navigation or to protect the marine environment and to safeguard the interests of other users of the sea. The MMO is responsible for advising on what these conditions should be and wishes to be consulted with again prior to any application being submitted to the IPC in order to inform their conditions. The MMO will be responsible for enforcing any conditions relating to the marine environment.

The objective of the EIA scoping procedure is to seek agreement from all key stakeholders on the assessment methodologies, including the scope of issues to be addressed and the method of assessment to be used during the EIA process. The exercise allows consultees to have an early input into the EIA process and to supply information that could be pertinent for the Environmental Statement.

As part of the scoping process, we have consulted our scientific advisers at the Centre for Environment, Fisheries and Aquaculture Science (Cefas) and our district MMO office. In reaching a conclusion, full regard has been paid to their responses and to the information you provided in the Scoping Consultation Document.

I enclose with this letter a statement, which sets out the screening and scoping opinion. I am copying this to those I have consulted with on the proposal.

Should you have any queries please do not hesitate to contact me.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Allyn Hogg', with a long horizontal flourish extending to the right.

Allyn Hogg
Marine Consents Case Officer
Marine Environment Team

INFRASTRUCTURE PLANNING COMMISSION (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2009: SCOPING OPINION

Proposal

Able UK are intending to continue development of their south Humber bank site. The development includes:

- A new quay with associated onshore development
- Wind turbine manufacture, assembly and testing facilities
- A biomass plant (with a cooling water system)
- A helipad

Location

The site is located on the Killingholme Marshes and North Killingholme Haven on the Humber Estuary. The new quay, lies within the Humber Estuary SSSI, Humber Estuary Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site and is adjacent to the North Killingholme Haven Pits SSSI.

Able UK Marine Energy Park (AMEP) South Humber Bank – Environmental Scoping Report

Environmental Resources Management has presented an Environmental Scoping Report to the Infrastructure Planning Commission, pursuant to the Infrastructure Planning Commission (Environmental Impact Assessment) Regulations 2009. The proposed scope of the Environmental Impact Assessment was detailed in Chapter 6 with the following subject areas considered:

- 6.2 Hydrodynamic & sedimentary regime
- 6.3 Water quality
- 6.4 Ecology & nature conservation
- 6.5 Commercial fisheries
- 6.6 Drainage and flood defense
- 6.7 Noise and vibration
- 6.8 Air quality
- 6.9 Light
- 6.10 Geology & ground conditions
- 6.11 Marine archaeology and heritage
- 6.12 Terrestrial archaeology and heritage
- 6.13 Commercial & recreational navigation
- 6.14 Traffic and transport
- 6.15 Socio-economics
- 6.16 Landscape & visual
- 6.17 Aviation
- 6.18 Wind turbine impacts

Scoping Opinion

The Marine Management Organisation recommends that the following aspects are also considered during the Environmental Impact Assessment and included in any resulting Environmental Statement (ES).

6.2 Hydrodynamic & sedimentary regime

The ES should include modelling to assess the thermal plume and impacts of abstraction. The plume will need to be assessed, both on its own and cumulatively with the E.ON and Centrica cooling water pipes to the north of the proposed site.

6.7 Noise & Vibration

Assessments of noise and vibration effects of piling noise must be carried out in relation to birds, fish and marine mammals and included in the ES.

6.10 Geology & ground conditions

Any computer modelling used in this assessment must be calibrated (and subsequently validated) with site-specific data to assess the potential impacts of; presence/absence of construction; seasonal differences including storm events; and wave diffraction, including effects of wind forcing.

Ground contamination investigations should be carried out anywhere terrestrial works may release contaminants into the marine environment. In addition, sampling of the marine sediments should be carried out to check suitability for disposal. The results of these should be included in the ES.

Additional considerations

The ES should provide more comprehensive details of the cumulative effects, in-combination effects and possible mitigation and monitoring.

The ES should also provide details of issues that have been scoped out to show the audit trail throughout the EIA process. It should also be noted (page 67) that Cefas stands for the Centre for environment, fisheries and *aquaculture* science, rather than *agricultural* science.

The Environment Agency will be able to comment on issues pertaining to water quality and the Water Framework Directive, and while nature conservation issues have been well covered within the scoping report, Natural England may have further suggestions or comments.

Conclusion

The items highlighted in this opinion should be considered in the Environmental Impact Assessment process and the outcome of these suggestions should be apparent in the subsequent Environmental Statement. We would wish to see clear documentation of how these points have been incorporated into any ES produced. However, this statement should not be seen as a definitive list of all Environmental Impact Assessment requirements and other subsequent work may prove necessary.

From: [IPC Scoping Opinion](#)
To: [Hawthorne, Emma \(NE\)](#);
[IPC Scoping Opinion](#);
cc: rcram@ableuk.com; [Duncan, Paul \(NE\)](#);
Subject: RE: Proposed Killingholme Port, Able UK
Date: 12 October 2010 13:49:11

Dear Emma

Further to your email regarding additional time to respond to the Killingholme Scoping report, unfortunately in order to be included in the IPC's scoping opinion your response must be received by the deadline stated in the letter (a statutory deadline of 28 days from the date of receipt for consultation bodies to respond).

If your response is received after the statutory deadline your comments will be sent to the applicant for due consideration but will not be included in the IPC's formal scoping opinion.

If you have any further queries please feel free to contact me.

Kind regards

Hannah Pratt

Assistant EIA and Land Rights Advisor

Infrastructure Planning Commission (IPC)

Temple Quay House
Temple Quay
Bristol
BS1 6PN

Direct Dial: 0303 444 5001

Helpline: 0303 444 5000

Email: Hannah.Pratt@infrastructure.gsi.gov.uk

Web: www.independent.gov.uk/infrastructure

The IPC gives advice about applying for an order granting development consent or making representations about an application (or a proposed application). The IPC takes care to ensure that the advice we provide is accurate. This communication does not however constitute legal advice upon which you can rely and you should note that IPC lawyers are not covered by the compulsory professional indemnity insurance scheme. You should obtain your

own legal advice and professional advice as required.

We are required by law to publish on our website a record of the advice we provide and to record on our website the name of the person or organisation who asked for the advice. We will however protect the privacy of any other personal information which you choose to share with us and we will not hold the information any longer than is necessary.

You should note that we have a Policy Commitment to Openness and Transparency and you should not provide us with confidential or commercial information which you do not wish to be put in the public domain.

From: Hawthorne, Emma (NE) [mailto:Emma.Hawthorne@naturalengland.org.uk]
Sent: Tuesday, October 12, 2010 1:01 PM
To: IPC Scoping Opinion
Cc: rcram@ableuk.com; Duncan, Paul (NE)
Subject: Proposed Killingholme Port, Able UK

Ref 100917_EN010030_252740

Unfortunately I have been unable to download the scoping document from the IPC website despite trying on a number of occasions yesterday and today.

I have spoken to Richard Cram at Able UK and he is going to send the document on CD.

I have attached Natural England's response to the pre application consultation for your information, but would like to request an extension to the scoping consultation period. Please can you confirm that this is acceptable and once I received the CD I will get back to you with a suggested response date. This is likely to be approx 1 week after receipt of the CD.

If you have any queries, please let me know

Best wishes

Emma

<<ECH 10-07-23 NE response to pre application consultation.doc>>

[Emma Hawthorne](#)

Conservation Advisor - Humber Estuary
Marine and Coastal Team
Natural England
25 Queen Street

Leeds

LS1 2UN

Please note my new postal address

Direct dial 0300 060 1873
Mobile 0777 3341639

This email and any attachments is intended for the named recipient only. If you have received it in error you have no authority to use, disclose, store or copy any of its contents and you should destroy it and inform the sender. Nothing in the email amounts to a legal commitment on our part unless confirmed by a signed communication. Whilst this email and associated attachments will have been checked for known viruses whilst within the Natural England systems, we can accept no responsibility once it has left our systems. Communications on Natural England systems may be monitored and/or recorded to secure the effective operation of the system and for other lawful purposes.

Correspondents should note that all communications to Department for Communities and Local Government may be automatically logged, monitored and/or recorded for lawful purposes.

Date: 23 July 2010
Our ref: O/N Lincs
Your ref: None

Marine Energy Park Consultation Team
Able UK Ltd
Able House
Billingham Reach Industrial Estate
Billingham
TS23 1PX
BY EMAIL

Natural England
Bullring House
Northgate
Wakefield
WF1 3BJ

T - 01924 334500
F - 01924 334535

Dear Mr Monk,

**RE: MARINE ENERGY PARK AT ABLE HUMBER PORTS KILLINGHOLME
Humber Estuary SSSI
North Killingholme Haven Pits SSSI
Humber Estuary Special Area of Conservation, Special Protection Area and Ramsar
site**

Thank you for providing Natural England with the opportunity to comment on the pre-application consultation for the proposed marine energy park at Killingholme. **Our response is intended as informal at this stage and is sent without prejudice to any formal advice we may offer in the future.** We hope that this response will help guide the next, important stages of the project as you move towards the formal scoping stage.

In principle, Natural England supports renewable energy as a means of combating climate change. In particular, Natural England believes that:

There is a consequent need to support low carbon energy developments in appropriate locations to reduce the long term risk to the natural environment from climate change and

Wind energy developments, appropriately designed and sited, play an important part in a low carbon, more efficient and sustainable energy system, which is needed to tackle climate change (Natural England's Position on Wind Energy, March 2009)

In addition,

New port development should be limited to the minimum necessary to meet current and robustly predicted demand and should avoid damage to the natural environment and

Where port development can be justified, a comprehensive and appropriate package of mitigation, compensation and monitoring must also be delivered (Natural England's Position on Port Development, May 2010)

As you will be aware, the proposed development site lies both adjacent to and within the above-listed designated sites – please note the correct names. The location of the proposed development in relation to the Humber Estuary and North Killingholme Haven Pits means that the provisions of the Wildlife and Countryside Act 1981 (as amended) and

the Habitats Regulations 2010¹ will apply. Under the auspices of the Habitats Regulations, in particular Regulations 61 and 62, the Competent Authority will have the statutory responsibility to determine whether or not the proposals are likely to have a significant effect, alone or in combination with other plans or projects, on the Humber Estuary SAC, SPA and Ramsar site. Natural England advises that the scope of the Environmental Impact Assessment should also include sufficient information to allow the Competent Authority to make the judgements required of them under the Habitats Regulations. Any assessment will need to consider potential impacts of the development on estuarine structure and function, and on all of the features of the Humber Estuary SSSI, SPA, Ramsar and SAC, and North Killingholme Haven Pits SSSI.

Part I B of *ODPM Circular 06/2005 - Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System* describes the procedure for the consideration of plans and projects which may affect sites protected by the Habitats Regulations.

Natural England's standard advice on information that should be included in an EIA report for a site on the Humber Estuary can be found in Appendix 1 at the bottom of this letter.

With regards to this particular proposal, Natural England will be happy to provide further information to the IPC at the formal consultation stage. However, we have the following comments to make at this stage, on the pre-application information.

Air quality and emissions – this must include the emissions from the proposed biomass plant. Natural England are concerned about the in-combination effects of the many biomass plants currently proposed close to the Humber Estuary.

Biological and geological conservation – due to the nature of the proposal, Natural England expects this section of the ES to include a considerable amount of information covering both permanent and temporary impacts. It must consider potential impacts on all of the features of the designated sites, including (but not limited to) the loss of roosting and foraging habitat for SPA birds (both on the intertidal and on the terrestrial site), disturbance to SPA/ Ramsar birds, impacts on North Killingholme Haven Pits, impacts on estuarine processes and function, impacts on fish including both river and sea lamprey migration, impacts on protected species (which are not mentioned in the consultation document), impacts on BAP species.

Please also note the correct designated site names at the top of this letter. The designated site boundary is the landward toe of the floodbank, or in areas with hard sea defences, the top of the sea wall. With regards to the need to demonstrate imperative reasons of overriding public interest and provide compensation, a crucial step in the Habitats Regulations has been omitted. This is the need to demonstrate that there are no alternatives that would have no (or a lesser) effect on the site's integrity. For example, the proposal includes a reclaim from the Humber Estuary of 52ha to create a solid quay. This will only be possible if it can be shown that the proposal cannot viably be achieved another way – such as with a conventional jetty structure or a smaller quay.

Dredged material – if the proposal goes ahead as planned, dredged material should be retained within the estuarine system. Implementation of the proposal would lead to major

¹ The Conservation of Habitats and Species Regulations 2010

changes to the established estuary-wide dredging and disposal strategies. Further information must be provided on how this will be addressed.

Flood risk – any proposals to manage flood risk must be in line with the Environment Agency’s Flood Risk Management Strategy. Any proposals which are not consistent with this strategy will need to be assessed separately under the Habitats Regulations.

Land use, including green infrastructure – new development will create a need for improved infrastructure, including green spaces and links, to help create vibrant and healthy communities. Development may also create a need for additional green infrastructure to be provided on a local or strategic level which would benefit the local area as whole. Development that does not address the impacts and needs it would create should not be acceptable. A commitment to maintain, enhance and provide new multifunctional green spaces and corridors, which would contribute to the green infrastructure of the area, is recommended.

Landscape and visual - In order to ensure that this proposed development takes into account the landscape and visual impacts that would inevitably arise, Natural England will expect the inclusion of a robust visual and landscape character appraisal within the Environmental Impact Assessment. Landscape character assessment provides a sound basis for guiding, informing and understanding the ability of any location to accommodate change and to identify positive proposals for conserving, enhancing or introducing changes to the environment as the proposals are developed.

North Lincs Council’s local landscape character assessment and emerging historic landscape characterisation should also be used to assist In this appraisal.

The appraisal should include a detailed assessment that evaluates the existing landscape in terms of its sensitivity, capacity and ability to accommodate change. It is appreciated that the area is already largely industrialised, so the emphasis may well be on addressing the visual impacts of the proposed development. This assessment should consider the location, scale, massing, proportions and colours of the built structures from a selection of viewpoints, and in particular the possible impacts of any night-time lighting. But this should not preclude seeking appropriate mitigation measures in keeping with the character of the area, and opportunities for incorporating appropriate landscape features, both to maintain and enhance the natural environment and to ameliorate any adverse impacts. Wherever possible, natural and manmade features such as hedges, fences and walls should be retained or reinstated so that there is no overall loss of these landscape features.

Additional comments:

Full consideration must be given to site run-off and drainage issues in relation to impacts on the Humber Estuary designated sites (including North Killingholme Haven Pits) and protected species. We would advise the incorporation of green roofs and sustainable drainage systems within the development design.

Assessment of noise and light impacts should include details of predicted noise and light levels during construction and operation both within the Humber Estuary designated site boundaries (including North Killingholme Haven Pits) and any other sensitive locations.

Consideration should also be given to any visual impacts on areas used by feeding and/or roosting SPA/ Ramsar birds (for example reduced sitelines), both within and adjacent to the footprint of the development;

The proposal to utilise the railway, which is presently little used, must consider the impacts on North Killingholme Haven Pits.

Helicopter landing pad - it is widely accepted that helicopters are the most disturbing type of aircraft to birds. There have been issues on the Humber Estuary with low flying helicopters disturbing nesting birds and Natural England has advised that helicopters should not fly at heights lower than 1000m over the estuary.

Wind turbine testing facility and operational turbines – detailed information will be required on these proposals to determine the impact on waterbirds.

Biomass plant – the sourcing of material should be sustainable. We welcome the identification of potential for carbon capture and storage, however impacts from the water intake and outfall from the plant need to be considered.

Able UK will be aware of the ongoing strategic South Humber Gateway work, and that the development site includes one of the proposed strategic mitigation areas. This development must not compromise potential solutions emerging from this important work, and therefore must include sufficient mitigation areas which are compatible with the established principles to safeguard the ornithological interest of the SPA/ Ramsar site.

In conclusion, Natural England welcomes this early consultation on this proposal; however, without prejudice to the consideration and discussion of further information, we have grave concerns in relation to the impact of the proposed development on the Humber Estuary SAC, SPA and Ramsar site, especially when considered in combination with other plans and projects. A development of the scale proposed is highly likely to lead to numerous adverse effects on the SAC, SPA and Ramsar site, and will only be able to proceed with a comprehensive justification that there are no alternatives and that the development is of overriding public interest. If these tests are successfully passed, a comprehensive compensation package must be delivered to ensure that the overall coherence of the Natura 2000 network is protected. At this stage, it is far from certain that sufficient and suitable compensation measures can be provided for the impacts associated with this development.

Natural England would be pleased to contribute to further discussions regarding this proposal.

If you would like to discuss this letter further, please do not hesitate to contact me. Please note that I am away on annual leave from July 26th to August 13th, during this time please contact Paul Duncan on 0300 060 1854.

Yours sincerely

Emma Hawthorne
Marine and Coastal Team
Natural England
Direct dial: 0300 060 1873
Email: Emma.Hawthorne@naturalengland.org.uk

Encs.

CC. Andrew Taylor North Lincs Council
Harriet Dennison RSPB
Elizabeth Biott Lincolnshire Wildlife Trust

Date: 15 October 2010
Our ref: O/N Lincs
Your ref: 100917-EN010030_252740

Mark Wilson
Infrastructure Planning Commission
Temple Quay House
Temple Quay
BRISTOL
BS1 6PN
BY EMAIL

Natural England
Bullring House
Northgate
Wakefield
WF1 3BJ

T - 01924 334500
F - 01924 334535

Dear Mr Wilson,

**RE: PROPOSED KILLINGHOLME PORT AND BIOMASS PLANT ABLE UK
Infrastructure planning (Environmental Impact Assessment) Regulations 2009
SI2263**

**Humber Estuary SSSI
North Killingholme Haven Pits SSSI
Kirmington Pits SSSI
Kelsey Hill Gravel Pits SSSI**

**Humber Estuary Special Area of Conservation, Special Protection Area and Ramsar
site**

Thank you for consulting Natural England prior to the IPC issuing its scoping opinion on the Able UK Marine Energy Park on the South Humber Bank. We have responded to the applicant previously at the pre application consultation stage; I have copied this letter below for your information.

With regards to the environmental scoping report received, Natural England has the following additional comments to make:

General comments

We found the report to be comprehensive and well written. As we have stated previously, the Environmental Statement must cover all the potential impacts on all the interest features of the designated sites during the construction, operation and decommissioning stages. There are a number of designated sites which may be affected by the development – these are listed above. Impacts on Rosper Road Pools Nature Reserve, which is also utilised by the Humber Estuary SPA and Ramsar birds should also be considered.

PPS9 states that, “Development proposals provide many opportunities for building-in beneficial biodiversity or geological features as part of good design. When considering proposals, local planning authorities should maximise such opportunities in and around developments, using planning obligations where appropriate.”

The Defra document “Guidance for Public Authorities on Implementing the Biodiversity Duty” gives further guidance on the impacts and potential benefits for biodiversity from development, the importance of biodiversity enhancement and green networks in good design and the importance of planning obligations in securing biodiversity enhancement. It outlines the benefits to businesses and society of such an approach.

This area has been identified as an area of biodiversity opportunity by the Yorkshire and Humber Regional Biodiversity Forum. Accordingly, the applicant should seek to provide features such as native trees and hedges, green or brown roofs, nesting and roosting habitats, wetlands and habitat networks as part of good design that will also enhance the landscape.

Alternatives - The Environmental Statement must consider alternatives. It is good practice to make a thorough appraisal of the different alternatives available in the environmental assessment. Alternatives will also need to be considered in the appropriate assessment if it is determined that the proposals would have an adverse effect on the integrity of designated sites. This must include an assessment of whether the proposal can be amended so that it has a lesser impact on the designated site.

Specific comments

The report states that the site will be operational 24 hours per day, 365 days per year. The impact of this increased disturbance on designated sites and protected species must be assessed.

3.3.29 states that the area behind the quay frontage will be infilled with geological or estuarine materials. The Humber maintenance dredge protocol states that dredge material must be retained with the estuarine system. If this proposal is taken forward, the loss of sediment to the Humber system must be assessed.

5.2.8 to 5.2.10 suggests that there must be flexibility in the scheme design. If this is the case, Natural England advises that a worst case scenario should be assessed. This is because tall buildings, or noisy processes located close to or adjacent to sensitive areas can affect usage of those areas by birds and other protected species.

5.6.19 it would be sensible to ensure that this section has sufficient information to enable the competent authority to undertake an in-combination assessment under the Habitats Regulations. Natural England and the local planning authorities will be able to provide further information on plans and projects to consider in this section.

6.2.21 refers to the cooling water intake and outfall pipeline required for the proposed biomass development. Key issues here will be fish impingement – it is Natural England’s understanding from work undertaken by the Environment Agency for their Review of Consents programme, that fine meshes to prevent fish impingement are not suitable for use in the Humber Estuary which has an extremely high sediment load.

Discharge - The proposed outfall should be fully assessed and include impacts such as scour, increased temperature and the introduction of chlorine based disinfectant and contaminants. The Environment Agency will be able to provide further advice on emissions (both to water and air); however their guidance states that an increase in ambient water temperature greater than 2°C within a designated site is likely to require a detailed assessment.

6.3.11 refers to increased hard standing which will result in an increase in runoff and drainage. Impacts on North Killingholme Haven Pits should be considered.

Table 6.3 – parts of the SPA citation are missing from this table – the article 4.2 migratory species and the waterfowl assemblage must be added.

6.4.6 - for a development of this size and scale, it is crucial to have a recent comprehensive data set to inform the assessment of impacts. Natural England suggests that the INCA field data, BTO WeBS counts, and other survey data, such as ABP data is added to the list. As stated previously, helicopters are known to be the most disturbing form of aircraft to birds, therefore the impact of the proposed flight path of the helicopter to and from the Energy Park must be assessed.

6.4.11 – this section is missing some ecological information as listed in North Lincolnshire Council's response, namely amphibians, vascular plants, invertebrates – terrestrial, aquatic and benthic, important hedgerows, trees with Tree Protection Orders and other protected or priority species or habitats located during survey or if they are likely to be revealed by survey.

6.4.12 - local record centres should be added, in particular the Humber Environmental Data Centre.

Table 6.4 and 6.5 – issues to be added to these tables are impacts on North Killingholme Haven Pits, including impacts on the high tide roost due to the loss of the adjacent intertidal mudflats, impacts on marine species – it is usual to follow precautionary procedures during construction such as soft start piling, and a marine mammal observer, impacts on migrating river and sea lamprey – during construction and operation, impacts of the helipad and proposed route onto site, this must include impacts on North Killingholme Haven Pits, which is important for a number of features including nesting avocet which are a Schedule 1 species. The applicant should be made aware that it is an offence under Part I of the Wildlife and Countryside Act 1981 (as amended) to intentionally or recklessly disturb any Schedule 1 bird while it is building a nest or is in, on or near a nest containing eggs or young; or to disturb its dependent young, impacts from the proposed wind turbines,

6.4.18 - Natural England agree that an appropriate assessment will be required and look forward to further consultation on this document

Section 6.6 - as stated previously, any proposed flood defence works need to be compatible with the Environment Agency's Flood Risk Management Strategy, and impacts including the footprint of works and coastal squeeze over the lifetime of the development will need to be included in any Habitats Regulations assessment.

6.18 wind turbine impacts – there is only minimal mention of ecological impacts in this section, with regards to turbine flicker. There must be full consideration of the full range of impacts from wind turbines such as bird strike and shadowing impacts on sensitive areas such as the designated sites or bird mitigation areas which it is expected will be required for the development. Survey methods should be in line with the Scottish Natural Heritage guidance – Survey methods for use in assessing the impacts of onshore windfarms on bird communities 2005. The methodology should ensure that all species likely to be affected are properly assessed. This should include (but not be limited to) wintering waterfowl, and

birds utilising North Killingholme Haven Pits in all seasons. The survey should cover all seasons when birds are likely to occur and cover at least one year.

Managed realignment site – it is noted that an area is proposed on the north bank of the Humber Estuary where compensatory habitat will be created. If the proposed development reaches this stage (certain tests must be passed first under the Habitats Regulations), then the impacts of the realignment site must also be assessed. It is known that this area is diverse saltmarsh habitat currently in favourable condition. It is expected that a realignment site will lead to some loss of saltmarsh through the breach and associated erosion. Whilst we appreciate that the map is indicative only at this stage, it does appear to include areas of the designated site. Obviously compensation land can only be provided outside the designated site boundary and must compensate for the range of habitats and functions lost.

Natural England letter of 23 July 2010

Thank you for providing Natural England with the opportunity to comment on the pre-application consultation for the proposed marine energy park at Killingholme. **Our response is intended as informal at this stage and is sent without prejudice to any formal advice we may offer in the future.** We hope that this response will help guide the next, important stages of the project as you move towards the formal scoping stage.

In principle, Natural England supports renewable energy as a means of combating climate change. In particular, Natural England believes that:

There is a consequent need to support low carbon energy developments in appropriate locations to reduce the long term risk to the natural environment from climate change and

Wind energy developments, appropriately designed and sited, play an important part in a low carbon, more efficient and sustainable energy system, which is needed to tackle climate change (Natural England's Position on Wind Energy, March 2009)

In addition,

New port development should be limited to the minimum necessary to meet current and robustly predicted demand and should avoid damage to the natural environment and

Where port development can be justified, a comprehensive and appropriate package of mitigation, compensation and monitoring must also be delivered (Natural England's Position on Port Development, May 2010)

As you will be aware, the proposed development site lies both adjacent to and within the above-listed designated sites – please note the correct names. The location of the proposed development in relation to the Humber Estuary and North Killingholme Haven Pits means that the provisions of the Wildlife and Countryside Act 1981 (as amended) and the Habitats Regulations 2010¹ will apply. Under the auspices of the Habitats Regulations, in particular Regulations 61 and 62, the Competent Authority will have the statutory responsibility to determine whether or not the proposals are likely to have a significant effect, alone or in combination with other plans or projects, on the Humber Estuary SAC, SPA and Ramsar site. Natural England advises that the scope of the Environmental Impact Assessment should also include sufficient information to allow the Competent

¹ The Conservation of Habitats and Species Regulations 2010

Authority to make the judgements required of them under the Habitats Regulations. Any assessment will need to consider potential impacts of the development on estuarine structure and function, and on all of the features of the Humber Estuary SSSI, SPA, Ramsar and SAC, and North Killingholme Haven Pits SSSI.

Part I B of *ODPM Circular 06/2005 - Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System* describes the procedure for the consideration of plans and projects which may affect sites protected by the Habitats Regulations.

Natural England's standard advice on information that should be included in an EIA report for a site on the Humber Estuary can be found in Appendix 1 at the bottom of this letter.

With regards to this particular proposal, Natural England will be happy to provide further information to the IPC at the formal consultation stage. However, we have the following comments to make at this stage, on the pre-application information.

Air quality and emissions – this must include the emissions from the proposed biomass plant. Natural England are concerned about the in-combination effects of the many biomass plants currently proposed close to the Humber Estuary.

Biological and geological conservation – due to the nature of the proposal, Natural England expects this section of the ES to include a considerable amount of information covering both permanent and temporary impacts. It must consider potential impacts on all of the features of the designated sites, including (but not limited to) the loss of roosting and foraging habitat for SPA birds (both on the intertidal and on the terrestrial site), disturbance to SPA/ Ramsar birds, impacts on North Killingholme Haven Pits, impacts on estuarine processes and function, impacts on fish including both river and sea lamprey migration, impacts on protected species (which are not mentioned in the consultation document), impacts on BAP species.

Please also note the correct designated site names at the top of this letter. The designated site boundary is the landward toe of the floodbank, or in areas with hard sea defences, the top of the sea wall. With regards to the need to demonstrate imperative reasons of overriding public interest and provide compensation, a crucial step in the Habitats Regulations has been omitted. This is the need to demonstrate that there are no alternatives that would have no (or a lesser) effect on the site's integrity. For example, the proposal includes a reclaim from the Humber Estuary of 52ha to create a solid quay. This will only be possible if it can be shown that the proposal cannot viably be achieved another way – such as with a conventional jetty structure or a smaller quay.

Dredged material – if the proposal goes ahead as planned, dredged material should be retained within the estuarine system. Implementation of the proposal would lead to major changes to the established estuary-wide dredging and disposal strategies. Further information must be provided on how this will be addressed.

Flood risk – any proposals to manage flood risk must be in line with the Environment Agency's Flood Risk Management Strategy. Any proposals which are not consistent with this strategy will need to be assessed separately under the Habitats Regulations.

Land use, including green infrastructure – new development will create a need for improved infrastructure, including green spaces and links, to help create vibrant and

healthy communities. Development may also create a need for additional green infrastructure to be provided on a local or strategic level which would benefit the local area as whole. Development that does not address the impacts and needs it would create should not be acceptable. A commitment to maintain, enhance and provide new multifunctional green spaces and corridors, which would contribute to the green infrastructure of the area, is recommended.

Landscape and visual - In order to ensure that this proposed development takes into account the landscape and visual impacts that would inevitably arise, Natural England will expect the inclusion of a robust visual and landscape character appraisal within the Environmental Impact Assessment. Landscape character assessment provides a sound basis for guiding, informing and understanding the ability of any location to accommodate change and to identify positive proposals for conserving, enhancing or introducing changes to the environment as the proposals are developed.

North Lincs Council's local landscape character assessment and emerging historic landscape characterisation should also be used to assist In this appraisal.

The appraisal should include a detailed assessment that evaluates the existing landscape in terms of its sensitivity, capacity and ability to accommodate change. It is appreciated that the area is already largely industrialised, so the emphasis may well be on addressing the visual impacts of the proposed development. This assessment should consider the location, scale, massing, proportions and colours of the built structures from a selection of viewpoints, and in particular the possible impacts of any night-time lighting. But this should not preclude seeking appropriate mitigation measures in keeping with the character of the area, and opportunities for incorporating appropriate landscape features, both to maintain and enhance the natural environment and to ameliorate any adverse impacts. Wherever possible, natural and manmade features such as hedges, fences and walls should be retained or reinstated so that there is no overall loss of these landscape features.

Additional comments:

Full consideration must be given to site run-off and drainage issues in relation to impacts on the Humber Estuary designated sites (including North Killingholme Haven Pits) and protected species. We would advise the incorporation of green roofs and sustainable drainage systems within the development design.

Assessment of noise and light impacts should include details of predicted noise and light levels during construction and operation both within the Humber Estuary designated site boundaries (including North Killingholme Haven Pits) and any other sensitive locations.

Consideration should also be given to any visual impacts on areas used by feeding and/or roosting SPA/ Ramsar birds (for example reduced sitelines), both within and adjacent to the footprint of the development;

The proposal to utilise the railway, which is presently little used, must consider the impacts on North Killingholme Haven Pits.

Helicopter landing pad - it is widely accepted that helicopters are the most disturbing type of aircraft to birds. There have been issues on the Humber Estuary with low flying helicopters disturbing nesting birds and Natural England has advised that helicopters should not fly at heights lower than 1000m over the estuary.

Wind turbine testing facility and operational turbines – detailed information will be required on these proposals to determine the impact on waterbirds.

Biomass plant – the sourcing of material should be sustainable. We welcome the identification of potential for carbon capture and storage, however impacts from the water intake and outfall from the plant need to be considered.

Able UK will be aware of the ongoing strategic South Humber Gateway work, and that the development site includes one of the proposed strategic mitigation areas. This development must not compromise potential solutions emerging from this important work, and therefore must include sufficient mitigation areas which are compatible with the established principles to safeguard the ornithological interest of the SPA/ Ramsar site.

In conclusion, Natural England welcomes this early consultation on this proposal; however, without prejudice to the consideration and discussion of further information, we have grave concerns in relation to the impact of the proposed development on the Humber Estuary SAC, SPA and Ramsar site, especially when considered in combination with other plans and projects. A development of the scale proposed is highly likely to lead to numerous adverse effects on the SAC, SPA and Ramsar site, and will only be able to proceed with a comprehensive justification that there are no alternatives and that the development is of overriding public interest. If these tests are successfully passed, a comprehensive compensation package must be delivered to ensure that the overall coherence of the Natura 2000 network is protected. At this stage, it is far from certain that sufficient and suitable compensation measures can be provided for the impacts associated with this development.

Natural England would be pleased to contribute to further discussions regarding this proposal.

If you would like to discuss this letter further, please do not hesitate to contact me. Please note that I am away on annual leave from July 26th to August 13th, during this time please contact Paul Duncan on 0300 060 1854.

If you would like to discuss this letter further, please do not hesitate to contact me.

Yours sincerely

Emma Hawthorne
Marine and Coastal Team
Natural England
Direct dial: 0300 060 1873
Email: Emma.Hawthorne@naturalengland.org.uk

Encs.

CC. Andrew Taylor North Lincs Council
Harriet Dennison RSPB
Elizabeth Biott Lincolnshire Wildlife Trust
Richard Cram Able UK

Appendix 1

Ecological information which should be gathered as part of an Environmental Impact Statement includes:

Conservation designations within the vicinity of the study area

Identify *all* sites of importance for nature conservation sites within 2km of the development, for example, any additional Sites of Importance for Nature Conservation, Local Nature Reserves etc, **as well as** the Humber Estuary designated sites listed above.

Habitat Survey

An evaluation of the habitats that form important landscape features within the proposed area should be made, for example, a Phase 1 vegetation survey, identification of locally important hedgerows.

Ornithological Data/Survey

The Humber Estuary is of international importance for (among other things) its over-wintering and passage waterfowl, therefore it is necessary to determine the importance of the proposed development site and the surrounding area for the SPA birds listed on the citations. This may be done as a desk study, which should compile information on bird usage of the site. However, if appropriate data are not available then surveys should be done.

Consideration may then have to be given to any potential impacts on these birds, and whether any mitigation is required before the development can go ahead.

We would expect key references in the Environmental Statement to include the citation for the Humber Estuary SSSI (which can be accessed at http://www.english-nature.org.uk/citation/citation_photo/2000480.pdf) and those for the Humber Estuary SPA, Ramsar site and SAC (all available on request from Natural England). Other sources of additional information on the nature conservation features of the estuary include Allen et al. (2003) *The Humber Estuary: A comprehensive review of its nature conservation interest*. English Nature Research report 547, English Nature, Peterborough (<http://naturalengland.twoten.com/NaturalEnglandShop/product.aspx?ProductID=2a2db582-cae9-4c3c-ae9b-0be06edd8494>).

In addition a breeding bird survey of the land should be undertaken in line with the standard British Trust for Ornithology Common Birds census methodology.

Other protected species

The protection afforded to protected species is explained in Part IV and Annex A of *Circular 06/2005 'Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System.'* Paragraph 98 of the Circular stated that “*the presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat.*”

Thus the suitability of the land for species protected under the Wildlife and Countryside Act should be determined.

Baseline conditions should be established through recognised survey techniques that are carried out at an appropriate time of year and which employ an acceptable level of sample effort which is proportional to the size of the site and the species and/or ecological communities that are being examined. It should be noted that such surveys should not be restricted to commonly occurring

protected species, particularly in relation to derelict brownfield sites where there can be significant invertebrate and lower plant assemblages. The value of the habitats and assemblages should be clearly and objectively established and their location clearly shown on site plans. If the application area is of no wildlife value this should be clearly established through the description of the baseline conditions. It is not acceptable to simply state that habitats are of no value without supporting evidence.

The presence of areas or structures that protected species use for shelter and feeding should also be clearly indicated on the relevant maps.

Other Ecological Issues

In relation to all potential impacts associated with the proposal, consideration should include mitigation and/or compensation measures where appropriate.

Natural England would urge the developer and the competent authority, in the assessment of potential impacts of the proposed development and any associated potential mitigation measures, to seek and incorporate opportunities for enhancement of nature conservation features both within and adjacent to the designated site.

Enjoyment of access land and Public Rights of Way

We also welcome the inclusion of an assessment of the impacts on recreational users of the area, particularly the effects on estuary based recreation and public footpaths. Natural England would wish to be assured of the continued enjoyment of the countryside by users of local routes and footpaths.

Natural England would also wish to be assured that suitable mitigation measures to reduce the visual impact of the proposed development and ensure continued enjoyment of the countryside by users of local footpaths are thoroughly explored and implemented.

Landscape

The assessment should be carried out in line with the guidance provided in Countryside Agency and Scottish Natural Heritage (2002) Landscape Character Assessment: Guidance for England and Scotland. This guidance document can be downloaded from the following link:

<http://www.naturalengland.org.uk/ourwork/landscape/englands/character/assessment/default.aspx>

Please also refer to Countryside Character Volume 3: Yorkshire & The Humber (CCP 537), with particular reference to National Character Area 41 the Humber Estuary. More information on landscape character is available from our website from the following link:

<http://www.naturalengland.org.uk/ourwork/landscape/englands/character/default.aspx>

In addition, a cumulative impact assessment should be undertaken to ascertain the cumulative effect of the proposed development when combined with other established/proposed developments within the zone of visual influence.

The assessment of the impacts of the proposal on landscape should be underpinned by the use of landscape character assessments. Natural England support the publication '***Guidelines for Landscape and Visual Impact Assessment***' (GLVIA), produced by the Landscape Institute and the Institute of Environmental Assessment and Management in 2002 (2nd edition). This book provides detailed methodology which should be followed when undertaking landscape and visual impact assessment (LVIA).

Natural England will expect changes to be assessed in respect of the area's:

- a) whole landscape character (the 'fabric' of the landscape) including its distinctiveness, individual or combinations of characteristics, quality and condition (and these may include tranquillity and integrity of character), in some areas seascape character will be relevant too;
- b) the visual amenity of people who live and work in the area and who enjoy the area for its recreational and amenity value (including visual amenity and the amenity of viewpoints);
- c) accessibility, including whether the proposed change would inhibit or enhance access to and enjoyment of the natural environment;
- d) biodiversity, including any species of flora or fauna that may be typically associated with the landscape character;
- e) geo-diversity including effects on nationally and regionally (or locally) designated sites and features;
- f) natural systems and processes that contribute to or are distinctive of the natural environment of the landscape;
- g) the cultural heritage and historic sites and features; and
- h) soils.

It is particularly important to ensure that:

- Correct distinctions are made between the assessment of potential effects on the character of the landscape - on the **landscape resource** itself (the combination of elements that contribute to landscape context, character and value) and on **visual amenity** (the value of a particular area or view in terms of what is seen).
- Cumulative effects are assessed.

From: [Hawthorne, Emma \(NE\)](#)
To: [IPC Scoping Opinion;](#)
Subject: NE response
Date: 15 October 2010 17:06:22

Sorry, have just noticed that the wrong address is on the letterhead! This is our new address for correspondence below.

Best wishes

Emma

Emma Hawthorne
Conservation Advisor - Humber Estuary
Marine and Coastal Team
Natural England
25 Queen Street

Leeds

LS1 2UN

Please note my new postal address

Direct dial 0300 060 1873
Mobile 0777 3341639

This email and any attachments is intended for the named recipient only. If

you have received it in error you have no authority to use, disclose, store

or copy any of its contents and you should destroy it and inform the sender.

Nothing in the email amounts to a legal commitment on our part unless confirmed by a signed communication. Whilst this email and associated attachments will have been checked for known viruses whilst within the Natural England systems, we can accept no responsibility once it has left our systems. Communications on Natural England systems may be monitored

and/or recorded to secure the effective operation of the system and for other lawful purposes.

Infrastructure Planning Commission
Temple Quay house
Temple Quay
Bristol
BS1 6PN

Floor 1b
George Stephenson House
Toft Green
York
YO1 6JT

F A O Mark Wilson
30th September 2010

Dear Sir,

TOWN & COUNTRY PLANNING ENVIROMENTAL IMPACT ASSESSMENT REGULATIONS (ENGLAND & WALES) 1999; SCOPING OPINION REQUEST FOR SITE AT KILLINGHOLME FOR PORT AND BIOMASS POWER STATION.

I refer to a scoping consultation sent to Network Rail with regard to the proposed development at the above address. For the purposes of the scoping opinion we are pleased to set out below those matters which we consider relevant in the context of the development site's proximity to our infrastructure.

Please note that Network Rail have a statutory obligation to procure the availability of safe train paths and as such we are required to take an active interest in any construction/ demolition activity adjacent to our property that potentially could affect the safe operation of the railway.

On specific matters, clearly our key interest is to protect the physical railway infrastructure. As the development site bounds the Killingholme branch line the EIA should demonstrate that the railway infrastructure will not be compromised and be adequately protected. Network Rail are currently in discussions with the applicant with regard to finding a solution to rail connectivity to the site while maintaining connectivity to existing sites in the vicinity. The existing capacity and performance in the Immingham docks complex should not be compromised by the proposals. The EIA must demonstrate that this is achievable; this should include the ability to run trains through the application site. The final solution may require an interface agreement to be put in place before we could support Able UK's development consent.



The EIA must demonstrate that the development will not interfere with the existing railway drainage and that all surface and foul water arising from the proposed works will be collected and diverted away from Network Rail Property.

Security of the railway boundary will require to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Engineer.

Consideration should be given to ensure that the construction and subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land. Therefore all/any building should be situated at least 2 metres from Network Rail's boundary. This will allow construction and future maintenance to be carried out from the applicant's land, thus avoiding provision and costs of railway look-out protection, supervision and other facilities necessary when working from or on railway land.

Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. The EIA should cover how the operation of the railway will not be prejudiced by the development.

It should also be noted that maintenance access points to the railway for which we have access rights, including pedestrian ones need to be taken into consideration in any new scheme.

With regard to the construction traffic, specific consideration should be given to the effect of large trailers over our level crossings: to prevent the possibility of grounding some additional works may have to be carried out at the relevant level crossing. This should be considered as part of the Transport Assessment.

I trust full cognisance will be taken in respect of these comments. If you have any further queries or require clarification of any aspects, please do not hesitate to contact me. I would also be grateful if you could inform me of the outcome of the scoping opinion and any relevant further correspondence in due course.

Yours sincerely

Margaret Lake
Town Planning Technician LNE

Mark Wilson
Infrastructure Planning Commission
Temple Quay House
Temple Quay
Bristol
BS1 6PN

IPC
18 OCT 2010
REF: _____

The Maltings
Silvester Square
Silvester Street
Hull
HU1 3HA

Tel: 01482 344814
Fax: 01482 344705

Your ref : 100917_EN010030_252740

14th October 2010

Email: wendy.richardson@hullpct.nhs.uk

Dear Mr. Price,

**Proposed Killingholme Port & Biomass Plant – Able UK Ltd.
Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 SI2263**

I am in receipt of your communication of 17th September regarding the above planning consultation and your invitation to provide information for consideration within the 'scoping' stage of this proposal.

I thank you for your advance communication in this respect, and I understand Dr. Tim Allison, Director of Public Health for East Riding of Yorkshire is also aware of this consultation.

Able UK Ltd. has asked the Infrastructure Planning Commission (IPC) for its opinion ('scoping opinion') on the information to be provided in an environmental statement relating to a proposal to construct and operate a new quay with associated onshore facilities and a biomass power plant (collectively referred to as the Abel marine Energy Park, or AMEP), including the construction and operation of two wind turbines, on the south bank of the River Humber, north of Immingham in North Lincolnshire. This request for a scoping opinion is a precursor to an intensive and detailed independent assessment of the environmental impact of the proposed development.

Whilst the Health Protection Agency provide consultative responses in relation to health protection issues associated with chemicals and radiation, the scope of Hull PCT's response focuses on wider health issues, associated with current health status and future health protection for the population of Hull, and environ. The advice offered by NHS Hull is impartial and independent.

NHS Hull recommendations regarding the scoping document

From my initial review of the web-based information referred to in your letter at:

<http://infrastructure.independent.gov.uk/wp-content/uploads/2010/09/17.09.10-AMEP-Scoping-Report.pdf> the following outlines the information that NHS Hull considers should be provided in the environmental statement.



TOGETHER WE CARE

Kath Lavery
Chair

Christopher Long
Chief Executive

General approach

The EIA should give consideration to best practice guidance such as the Government's Good Practice Guide for EIA(DCLG 2006). It is essential that the EIA identifies and assesses the potential public health impacts of the activities at, and emissions from, the installation. Assessment should consider the development, operational and decommissioning phases.

The applicant should ensure that the EIA contains sufficient information for relevant authorities to be able to fully assess the potential impact of the development on public health, including potential off-site effects and threats to health in the event of an accident and it is recommended that a separate section be included in the environmental statement summarizing the impact of proposed development on public health: setting out risk assessments, proposed mitigation measures, and residual potential impacts on health, in relation to relevant sections of the application. Compliance with national policy statements requirements and with relevant guidance and standards should be highlighted.

The document should be reviewed by the IPC to ensure that the application is of sufficient quality to be submitted for consultation. I note your advice on the PCT's duty (under Regulation 9(3), if so requested by the applicant, to make available information held by the PCT which is considered relevant to the preparation of the environmental statement, however, the PCT considers that the onus should be on the applicant to gather and clearly present the information required and requested by statutory consultees, and that it should not be the role of statutory consultees to undertake the relevant assessments on the applicant's behalf; this would pose significant resource implications and would conflict with the consultee's position as an impartial and independent body. The onus is therefore on the applicant to ensure that the relevant public health issues have been identified and addressed.

The PCT would expect to see comprehensive coverage of public health issues and potential impacts. Such health effects will include impacts arising from construction and traffic related pollution, air quality impacts, potential impacts on health arising from emissions to water and conservation of water quality, and potential health impacts related to contaminated land, as well as identification and mitigation of potential impacts on health related to waste creation, storage, transport and disposal. The assessment of impacts on health should extend beyond the standard 'harm to health' to include an assessment of the social and economic impacts(positive and negative) for local communities and those within range of the development on the north bank of the river Humber.

Biomass

The transportation and storage of biomass is an emerging area. Degradation of organic material carries the risk of self-combustion leading to fires and associated public health issues. It is recommended that the environmental statement includes a review of potential impacts associated with the transport and storage of biomass and the measures that will be used to avoid, mitigate and control these impacts.

Electromagnetic fields

There is a potential health impact associated with the electric and magnetic fields around substations and the connecting cables or lines. The Health Protection Agency(HPA) makes recommendations on limiting public exposure to electromagnetic fields (HPA website) and supports the view that precautionary measures should address solely the possible association with childhood leukaemia, as opposed to other more speculative health effects. The PCT would expect the environmental statement to set out clearly all

information as specified by the Health Protection Agency in their detailed recommendations to this consultation.

Liaison with other stakeholders, comments should be sought from:

- Neighbouring local authorities, including the north bank for matters relating to noise, odour, vermin and dust nuisance
- The Environment Agency for matters relating to flood risk and releases with the potential to impact on controlled waters

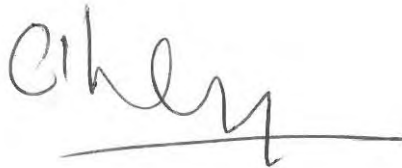
Environmental Permitting

The Environmental Statement should seek evidence and assurances to limit potential impacts on public health based on the utilisation of 'best practice' and the adherence to legal and regulatory limits relevant to all phases of the development.

Amongst other permits and consents, the development will require an environmental permit from the Environment Agency to operate (under the Environmental Permitting (England and Wales) Regulations 2007). Therefore the installation will need to comply with the requirements of best available techniques (BAT). The PCT is consultee to environmental permit applications and will respond separately to any such consultation.

I look forward to further consultative opportunities as this development progresses.

Yours sincerely



Dr Wendy Richardson
Director of Public Health for Hull

Environmental Impact Assessment: A guide to good practice and procedures – A consultation paper, 2006; Department for Communities and Local Government. Available from:
<http://www.communities.gov.uk/archived/publications/planningandbuilding/environmentalimpactassessment>

HPA: <http://www.hpa.org.uk/Publications/Radiation/NPRBArchive/DocumentsOfTheNRPB/Absd1502/>

Application number: PA/2010/1097

(please quote in all correspondence)

Case officer: William Hill tel: 01724 297482

Email: planning@northlincs.gov.uk

Your ref: 100917-ENO10030-252740

13 October 2010

Mr David Price
Infrastructure Planning Commission (IPC)
Temple Quay House
Temple Quay
BRISTOL
BS1 6PN

IPC
15 OCT 2010
REF:



www.northlincs.gov.uk

Geoff Popple
Service Director
Highways and Planning
Church Square House
PO Box 42
Scunthorpe
North Lincolnshire
DN15 6XQ

Dear Mr Price

Proposed Killingholme Port and Biomass Plant ('the Project') Able UK Ltd ('the Applicant') Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 SI 2263 ('the EIA Regulations')

Further to your letter dated 17 September 2010 requesting North Lincolnshire's comments in respect of the Scoping Opinion requested of you by Able UK Limited. Please find enclosed 2 bundles of documents one headed NLC Responses to Able UK Marine Energy Park Informal Consultation and a second bundle.

The first bundle contains comments sent to Able UK at an informal consultation stage on this proposed development to help them prepare the necessary Scoping Opinion.

The second bundle are comments received from internal consultations and consultations with the local Parish Council that North Lincolnshire has received subsequent to viewing the Scoping Request.

In accordance with the appropriate regulation please take this response as the formal response of North Lincolnshire Council which request that the Scoping Opinion takes account of all comments raised by the Council both informally and pursuant to the latest round of consultations entered into.

I trust this advise you of the Council's position and should you require further information please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read "William Hill", is written over a horizontal line.

William Hill
Principal Planning Officer

Enc

1. NLC Development Control Response

This is a response to an informal consultation (pre application) from Able UK Ltd on their proposal to develop a Marine Energy Park on approximately 247 Ha of land, with about 52 Ha of additional land being reclaimed, involving the creation of a quay. An inclusive part of the plan is to provide a biomass plant producing around 300 MW of electrical power as is a helicopter landing facility.

The current planning regime provides for such projects to be considered by the Infrastructure Planning Commission, IPC, and Able have made public their intentions to adopt this route for seeking the necessary consents.

The following response is from a Development Control Unit perspective ONLY.

The involvement of the Development Control Unit will be an ongoing through all consultation procedures required by the IPC Regulations, both informally, formally, non statutory and statutorily. Provided such procedures are followed by all relevant parties and timescales adhered to no difficulties should arise with this element of the process.

When consulted by the IPC the Council should have limited additional consultation work to carry out, as by this stage of the process Statutory and Non-statutory consultations will have been dealt with. Some internal consultations may however be required to ensure completeness, until such time as appropriate lists of all those consulted are available the level of these consultations cannot be quantified.

The tabulated list provided in the consultation at pages 14 - 16 looks to be a realistic starting point for the scope of the required Environmental Impact Assessment.

The proposal itself will result in many competing and potentially opposing views, desires and opinions, and before the IPC can be informed of this Council's views the matter will have to be referred to the Council's Planning Committee for the Council's view to be mandated which will undoubtedly require a co-ordinated approach to best advise members of the relevant facts that form the basis of the Council's ultimate stance on this proposal.

Because of the rigors of the IPC process and acknowledging that it, or any successor body in whatever name will be the Determining Authority, other than confirming that in the current Development Plan for the area, the North Lincolnshire Local Plan, the area is allocated for Estuary Related Industry, the involvement of the Council's Development Control Unit will be purely procedural. Therefore, to reiterate, providing all procedures as set out by relevant legislation and regulation pursuant to the Planning Act 2008 and subsequent IPC Regs are followed no further views of this unit are required at this early stage.

W J Hill

Principle Planner, Development Control Team

For and on behalf of Mike Welton. Head of Planning.

2. NLC Environment Response

The Environment Team's contribution to the Council's response to the informal consultation. The comments are given without prejudice to any future decision or further comments which may be made upon receipt of a formal consultation, scoping request or application.

Environmental Impact Assessment

I agree with the applicant that the proposal will require Environmental Impact Assessment. This will require a detailed chapter on ecology, as well as landscape and other issues covered by the Team. For such a large and complex proposal, we would expect detailed consideration of alternatives, both in terms of the EIA regulations and Habitats Regulations. Further guidance on alternatives is given in Appendix 1.

In terms of any adverse environmental impacts identified, the ES should discuss measures to avoid the impacts and possible alternative solutions, as well as mitigation and/or compensation. Applying PPS9, Circular 06/05 and Section 28G of the Countryside and Rights of Way Act 2000, North Lincolnshire Council should also be seeking biodiversity enhancement and enhancement of the features for which the adjacent SSSIs are designated. This may include habitat networks and wildlife corridors.

Requirements for Ecological Information

All ecological works should be carried out in accordance with the standards in the IEEEM guidance on Ecological Impact Assessment. The following areas should be covered- detailed guidance is given in Appendix 2:

- i) Habitat survey
- ii) Badgers
- iii) Bats
- iv) Reptiles
- v) Amphibians
- vi) Breeding birds
- vii) Wintering/passage birds
- viii) Water voles
- ix) Vascular plants
- x) Invertebrates- aquatic, terrestrial and benthic.
- xi) Important Hedgerows.
- xii) Trees with Tree Preservation Orders.
- xiii) Any protected or priority species or habitats not listed above should be addressed in the ES if they are revealed through surveys or if there is a reasonable likelihood of them being affected by the proposal.

Requirements for physical and geomorphological information

The following areas should be covered- detailed guidance is given in Appendix 3:

- i) Estuarine information- estuarine processes and geomorphology.
- ii) Information required to underpin habitat creation and landscaping.

Likely Impacts

- i) Loss of Station Road Field Local Wildlife Site (at Ordnance Survey Grid reference TA167181). This is a site with neutral grassland, wet ditches, hard standing colonised by plants typical of previously developed land and two ponds with great crested newts (see below).
- ii) Possible loss and/or obstruction of bat roosts and likely loss of bat foraging habitat. All UK bats are European Protected Species.
- iii) Loss of a breeding pond and terrestrial habitat for great crested newts. The great crested newt is a European Protected Species (EPS). Therefore such loss could only be consented where a) it would not affect the range and favourable conservation status of the species, b) where there is no alternative AND c) where there are reasons of over-riding public interest. Evidence for the three tests (a-c above) needs to be recorded by the decision maker- in advance of any EPS licence application. Retention of the pond and terrestrial habitat on-site needs to be considered as an alternative.
- iv) Loss of UK BAP priority farmland bird species and their habitat; along with the potential for damage to birds' eggs, nests and young through any works carried out during the breeding season.
- v) Loss of farmland currently used by flocks of around 100 wintering/passage curlew associated with the nearby intertidal habitat of the Humber Estuary SPA/Ramsar.
- vi) Harm to water voles and loss of their habitat.
- vii) Loss of parish boundary hedgerows and trees with Tree Preservation Orders.

The Conservation of Habitats and Species Regulations 2010- Implications for the Humber Estuary SAC, SPA and Ramsar Site.

I agree with the applicant (Consultation Document section 9) that the proposed project is likely to have a significant effect (LSE) on the above sites, that an appropriate assessment will be needed and that it cannot be demonstrated the project will not have an adverse effect on the integrity (AEOI) of the above sites. The latter point can be inferred from the suggestion that compensatory habitat will be required.

Given that there could be an adverse effect on the integrity of the Humber Estuary SPA, SAC and Ramsar sites, the project can only be consented if there are no alternatives to the proposal, and then if there are imperative reasons of over-riding public interest (IROPI) for the project. If both of those conditions are met then the Secretary of State "must secure that any necessary compensatory measures are taken to ensure that the overall coherence of Natura 2000 is protected"- Reg 66.

With this project, likely significant effects (and hence potential AEOI) include:

- i) Loss of a large area of subtidal habitat.
- ii) Loss of a large area of intertidal habitat- primarily mudflats.
- iii) Impacts on estuarine flows and patterns of sediment erosion and deposition.
- iv) Loss of farmland currently used by flocks of around 100 wintering/passage curlew associated with the nearby intertidal habitat of the Humber Estuary SPA/Ramsar.

NLC Responses to Able UK Marine Energy Park Informal Consultation

- v) Permanent displacement of waterbirds using intertidal habitat in WeBS sector ISJ, including the vast majority of the estuary's black-tailed godwits and a high proportion of the site's ruff.
- vi) Permanent displacement of waterbirds using North Killingholme Haven Pits SSSI (NKHP), including the vast majority of the estuary's black-tailed godwits and a high proportion of the site's ruff. The site also holds breeding and wintering avocet and large numbers of other species listed in the SPA and Ramsar citations. Development is proposed immediately adjacent to NKHP, potentially leading to disturbance to the birds. Displacement of birds from ISJ (see above) may result in a consequent displacement from NKHP if the link between the sites is disrupted. Furthermore, it is proposed that wind turbines will be constructed and moved in an upright position around the quay and the current line of the floodbank. For birds attempting to fly to NKHP from ISJ and Pyewipe, this will be akin to flying through a windfarm. There is now a body of evidence showing that wading birds can be displaced for distance of several hundred metres around wind turbines.
- vii) Birdstrike during any rotor testing of wind turbines.
- viii) Permanent displacement of waterbirds using Rosper Road Pools Lincolnshire Wildlife Trust Reserve, due to this project acting in combination with the Heron Energy plant proposal.
- ix) Temporary disturbance and displacement of various groups of waterbirds from various locations during the construction phase of the proposal, alone and in combination with other plans and projects.
- x) Creation of new structures that may harbour avian predators such as gulls, crows and birds of prey.
- xi) Potential impacts on River and Sea Lamprey, whose movements are little known.

All of the above impacts need to be considered alone and in combination with other plans and projects including (but not limited to):

1. PA/2009/0600 Able UK proposal at East Halton.
2. Drax Heron Energy Plant
3. Humber Unitary authorities' Local Plans and Local Development Documents.
4. Environment Agency Humber Flood Risk Management Strategy.
5. Killingholme Marshes Drainage Scheme.

Mitigation and Compensation under the Habitats Regulations

The major adverse effects for this project relate to loss of intertidal and subtidal habitat that is intimately related to major high tide roost sites at NKHP and Killingholme Marshes. Any package of compensation therefore, needs to be able deliver, subtidal, saltmarsh and mudflat habitats of adequate extent to compensate for the losses. There will need to be high tide roosting and feeding habitat comparable to NKHP adjacent to the new estuarine habitats. The package of estuarine and high tide habitats should be demonstrably capable of supporting thousands of black-tailed godwits and the other elements of the waterbird assemblage displaced from the area of the application site.

Assuming that compensation will be proposed largely through managed realignment of sections of estuary, reference should be made to the findings of the Humber Estuary Managed Realignment Monitoring Group. At other managed realignment

NLC Responses to Able UK Marine Energy Park Informal Consultation

sites, anticipated mudflat areas have accreted more rapidly than expected, creating saltmarsh and even terrestrial habitats. Sediment has been of a different quality from the neighbouring mudflats and invertebrate communities have sometimes been of a terrestrial rather than benthic nature. Consequently, birds have used the sites more for roosting and less for feeding than expected. The applicant will need to be able to demonstrate that these pitfalls could be avoided in order to give confidence in the proposed mitigation and compensation.

Offsite effects

Greenhouse gases and climate change

Part of the rationale for the public benefit from this proposal is that it will contribute to the nation's "green energy", thus minimising emissions of greenhouse gases. These benefits need to be properly assessed, before being weighed against the impacts. Thus it would be helpful to have a full carbon budget for the proposal. Whilst wind turbines and the biomass power station have the potential to be carbon-neutral in the long-term, other elements of the project, such as the use of large quantities of concrete, and the transport of fuels and materials, result in significant carbon emissions.

Marine sands and gravels

The Environment Team's understanding is that large quantities of marine-dredged sands and gravels are proposed to be used in the construction of the quay. Marine sand and gravel extraction has significant potential to affect benthic communities and wider marine ecosystems, though the magnitude, duration and reversibility of these effects are a matter of considerable academic debate. In order to assess environmental effects fully, it will be necessary to consider information on the location, duration and scale of marine extraction, along with any projected impacts.

PPS9 and the Potential for Biodiversity and Landscape Enhancement

Clearly, this project is at an early stage and the details of design have yet to be produced. However, the submitted Masterplan gives the impression of a large area being converted from relatively diverse habitat to a site devoid of wildlife or landscaping. It is important to ensure that this does not happen.

PPS9 states that, "Development proposals provide many opportunities for building-in beneficial biodiversity or geological features as part of good design. When considering proposals, local planning authorities should maximise such opportunities in and around developments, using planning obligations where appropriate."

The Defra document "Guidance for Public Authorities on Implementing the Biodiversity Duty" gives further guidance on the impacts and potential benefits for biodiversity from development, the importance of biodiversity enhancement and green networks in good design and the importance of planning obligations in securing biodiversity enhancement. It outlines the benefits to businesses and society of such an approach.

This area has been identified as an area of biodiversity opportunity by the Yorkshire and Humber Regional Biodiversity Forum. Accordingly, the applicant should seek to

NLC Responses to Able UK Marine Energy Park Informal Consultation

provide features such as native trees and hedges, green or brown roofs, nesting and roosting habitats, wetlands and habitat networks as part of good design that will also enhance the landscape.

If you have any questions, please do not hesitate to contact me.

Andrew Taylor
Project Officer (Ecologist)

Appendices (Environment)

1. Environmental Impact Assessment and Consideration of Alternatives

Environmental Impact Assessment is not intended to be used as a tool to justify a pre-determined proposal. Rather, it is good practice for the ES to include a genuine assessment of the alternatives considered before arriving at the best environmental option (Circular 02/99):

“83. Where alternative approaches to development have been considered, paragraph 2 of Part II of Schedule 4 now requires the developer to include in the ES an outline of the main ones, and the main reasons for his choice. Although the Directive and the Regulations do not expressly require the developer to study alternatives, the nature of certain developments and their location may make the consideration of alternative sites a material consideration (see, for example, paragraph 3.15 of PPG 23). In such cases, the ES must record this consideration of alternative sites. More generally, consideration of alternatives (including alternative sites, choice of process, and the phasing of construction) is widely regarded as good practice, and resulting in a more robust application for planning permission. Ideally, EIA should start at the stage of site and process selection, so that the environmental merits of practicable alternatives can be properly considered. Where this is undertaken, the main alternatives considered must be outlined in the ES.”

See also “Environmental Impact Assessment: A guide to good practice and procedures: A consultation paper (2006)”:

“Alternatives

139. The number and type of alternatives will depend on the individual project. These are likely to have been considered during project preparation (see Section 1). Schedule 4 to the Regulations requires an outline of the main alternatives studied by the applicant to be included in the ES. If no alternatives have been considered then the ES should explain why. In the case of larger developments, alternatives may have been the subject of consultation with the public or relevant organisations, and this should be recorded in the ES. Whatever options have been evaluated, the criteria for assessment should be clearly explained.”

2. Detailed Guidance on Requirements for Ecological Information.

i) Habitat survey

NLC Responses to Able UK Marine Energy Park Informal Consultation

Extended Phase 1 survey with target notes will certainly be useful. However, given the generally arable nature of the land, a standard Phase 1 approach may result in much of the area not being coloured-in or simply being coded with an "A", giving little useful information. It would be useful to describe the arable land in more detail, in order to help interpret the distribution of SPA-listed bird species using the land for roosting, feeding and loafing. Features such as surface water, fallow, ploughed land and crop types/stage of growth may need to be described.

In the intertidal and subtidal areas, habitat assessment will need to be very detailed- both for the area affected by the proposal and adjacent to any proposed site for compensatory habitat. This will include classification and mapping of any mudflat, sandflat and saltmarsh habitats.

ii) Badgers

It may be possible to rely on bait marking studies and other survey data previously submitted with Able UK's applications. Humber INCA has also recently carried out survey work in this area.

However, where significant areas have not been covered by previous surveys, or where the Extended Phase 1 survey indicates signs of badger activity, additional surveys may need to be carried out. Surveys should be carried out by a competent person at the appropriate time of year. They should include searches for field signs such as setts (main setts, annexe setts, subsidiary setts and outliers), foraging trails, snuffle holes, latrines, guard hairs, footprints etc. Where badger field signs are discovered, it may be necessary for bait marking studies to be carried out, to reveal the foraging behaviour of each social group. This will enable any potential impacts on badgers to be assessed in accordance with paras 123-124 of Circular 06/05.

iii) Bats-

Surveys should be carried out by a licensed and experienced bat worker at the appropriate time of year. This should include a search for roosts in trees and buildings and desktop data search for existing records within the vicinity. There should be assessment of bat potential in mature trees. Bat foraging areas and flight lines should be assessed using bat detectors in suitable conditions on a number of dusk/dawn visits in accordance with Mitchell-Jones, A.J. (2004) Bat Mitigation Guidelines.

iv) Reptiles-

Surveys should be carried out by a competent person at the appropriate time of year in accordance with Gent, T. and Gibson, S. (2003) Herpetofauna Workers' Manual (JNCC). The area of search should be described and justified in the ES. Similarly, if reptiles are scoped out, this should also be justified.

v) Amphibians –

Surveys should be carried out by a competent person at the appropriate time of year in accordance with Gent, T. and Gibson, S. (2003) Herpetofauna Workers' Manual (JNCC).

For great crested newts (GCN), surveys should be carried out by a licensed and experienced surveyor using standard methods at the appropriate time of year, in accordance with English Nature (2001) Great Crested Newt Mitigation Guidelines.

NLC Responses to Able UK Marine Energy Park Informal Consultation

The area of search should be described and justified in the ES. GCNs are known to be present around the boundary of the Local Wildlife Site known as Station Road Field.

vi) Breeding birds-

Surveys should be carried out by a competent person at the appropriate time of year in accordance with the Common Birds Census Methods, using appropriate methods and fieldcraft to avoid disturbance to birds. In terms of territory mapping, attention should focus on Schedule 1, BAP and red/amber listed species of conservation concern. A number of evening/crepuscular visits will be necessary to assess to use of the area by barn owls and other species for breeding and foraging.

Surveys have recently been carried out through Humber INCA and results are available from the Humber Environmental Data Centre. However, surveys may need to be updated as a consequence of Able UK's existing developments in the area.

vii) Wintering/passage birds-

Surveys should be carried out by a competent person between July and March (inclusive) using appropriate methods and fieldcraft to avoid disturbance to birds. Attention should focus on species listed in the Humber Estuary SPA/Ramsar citations (and relevant assemblages), Schedule 1, BAP and red/amber listed species of conservation concern. Use of the area for roosting, loafing and feeding should be described, as well as bird movements between sites. One count per week should take place across the whole site within two hours either side of the high tide. A number of evening/crepuscular visits will also be required. Natural England may recommend visits at other states of the tide. Areas of the site may be excluded from the survey by agreement if the habitat is unsuitable. The ES should describe details of any weather conditions, wider bird movements or disturbance which may be relevant in interpreting bird numbers. If counts are regularly affected by adverse weather conditions or disturbance to the birds, then repeat/replacement counts may be required. In such a case, it would be worth seeking our advice at the earliest possible opportunity.

Surveys have recently been carried out through Humber INCA and results are available from the Humber Environmental Data Centre. However, surveys may need to be updated as a consequence of Able UK's existing developments in the area.

viii) Water voles-

Surveys should be carried out by a competent person at the appropriate time of year in accordance with Strachan, R. (1998) Water Vole Conservation Handbook. Surveys should cover all wet ditches and water bodies. If any ditches or water bodies are excluded from the search, the criteria used for this selection should be justified in the ES.

Surveys have recently been carried out through Humber INCA and results are available from the Humber Environmental Data Centre.

ix) Vascular plants-

NLC Responses to Able UK Marine Energy Park Informal Consultation

Any notable records of species or communities should be highlighted in the Phase 1 survey. Lincolnshire Local Wildlife Site survey methods should be used to assess any sites with plant communities indicative of UK BAP priority habitats.

x) Invertebrates-

Phase 1 survey may identify the need to survey for various invertebrate taxa (notably, but not exclusively, aquatic invertebrates and invertebrates of bare ground and previously developed land). Large elm trees should be checked for white letter hairstreak butterflies in this area. Such surveys should be carried out by a competent person at the appropriate time of year. Taxa surveyed, methods used and the area of search should be described and justified in the ES.

The intertidal and subtidal habitats affected by the proposal should be surveyed for benthic invertebrates in accordance with methods to be agreed with Natural England. Previous studies around Humber Sea Terminal, Immingham Outer Harbour and managed realignment sites may be instructive in terms of selecting appropriate methods and sampling regimes. Comparable methods should be employed to sample intertidal benthic invertebrates adjacent to any proposed site for compensatory habitat.

xi) Hedgerows- should be assessed to determine whether they would be classed as "Important" under the Hedgerow Regulations 1997, for either ecological or historic reasons. The relevant Enclosure Award would be the Killingholme Enclosure Award 1776-1799.

xii) Any protected or BAP species or habitats not listed above should be addressed in the ES if they are revealed through surveys or if there is a reasonable likelihood of them being affected by the proposal.

3. Detailed Guidance on Requirements for Physical and Geomorphological Information.

i) Estuarine information

In order for Competent Authorities to make informed judgements under the Habitats Regulations, it will be necessary for the applicant to provide information on the likely effects of the proposal on estuarine processes and geomorphology. They will also need to describe and assess the characteristics of the intertidal and subtidal habitat in the area affected by the proposal and adjacent to any proposed site for compensatory habitat. Previous studies around Humber Sea Terminal, Immingham Outer Harbour and managed realignment sites may be instructive in terms of selecting appropriate methods and sampling regimes. Information likely to be required includes flow speed, flow direction, sediment load in the water column, topography, sediment depth and grain size, organic content of sediment, tidal prism, erosion and deposition patterns etc.

ii) Habitat creation-

Where habitat creation is proposed as mitigation, compensation or planning gain, the underlying survey information should be adequate for regulatory authorities to assess whether the proposals are feasible. In addition to information on species and habitats, it will also be necessary to measure physical conditions including (but not exclusively) soil conditions and hydrology. Where applicable, the applicant should follow the standards set out in Natural England's Technical Advice Notes.

3. NLC Landscape Assessment Response

The council notes that the proposed development referred to in the informal consultation is likely to require an accompanying assessment under The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as variously amended). It is normal procedure for such assessments to include an assessment of impact upon the character of the landscape and upon visual amenity. This is commonly referred to as a Landscape and Visual Impact Assessment (LVIA). The council notes the proposer's stated intention to undertake such an assessment and offers the following comments.

Any such assessment should be based upon a rational system of assessment and it is suggested that the development of such a scheme could be informed by publications such as: -

- Guidelines for Landscape and Visual Effect Assessment (Landscape Institute and Institute of Environmental Management and Assessment, Second edition 2002), and;
- Guidelines on the Environmental Effect of Wind Farms and Small Hydroelectrically schemes (Scottish Natural Heritage 2002), and;
- Guidelines: Cumulative Effect of Wind Farms, Version 2, (Scottish Natural Heritage, revised 13th April, 2005).

The Landscape Institute guidance will be useful for the development of systems of landscape assessment for the site as a whole and in particular for the assessment of the landscape and visual impact of the proposed bio mass power station upon the landscape generally and for assessment of the proposed quay upon the landscape, including any impacts upon the landscapes of the Humber.

Guidance from Scottish Heritage is suggested because the proposal appears to involve the presence on the site of wind turbines. Unusually, these structures will be transitory in that once erected on the site they will be transported out to sea. At any one time however, should permission for the proposal be given, it is likely that several wind turbines to a height in excess of 250 meters to rota tip, will be present during various stages of construction at the site. For this reason it is suggested that a separate assessment of the impact and cumulative impact of these structures upon the landscape and upon visual receptors of various kinds is made.

Any assessment of impact should refer to existing local and national landscape characterisations and advice: -

<http://www.planning.northlincs.gov.uk/PlanningReports/LocalPlan/SPG5CountrysideDesignSummary.pdf>

<http://www.planning.northlincs.gov.uk/PlanningReports/LocalPlan/SPG5LandscapeCharacterAssessment.pdf>

http://www.naturalengland.org.uk/ourwork/landscape/englands/character/areas/humber_estuary.aspx

NLC Responses to Able UK Marine Energy Park Informal Consultation

It should be noted that the presence of wind turbines under construction is likely to require an impact assessment over a much wider area than would be required for the quay or, indeed, the power station (the overall height and massing of the latter may also require a wide ranging assessment however). This is likely to include information arising from other national and local landscape character assessments.

<http://www.naturalengland.org.uk/ourwork/landscape/englands/character/areas>

Information Requirement – Trees and Landscape.

Section 197 of the Town and Country Planning Act 1990 imposes a duty upon local planning authorities to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees.

This duty is reflected in the wording of the National Standard Application Form (NSAF). Where there are trees on or adjacent a proposed development site then, at the discretion of the local planning authority, a tree survey may be needed.

If this is the case the applicant will have to provide a full tree survey as set out on the Council's website at SPG 11 – Trees and Development. Guidance Note 1 deals with site and tree surveys. Guidance Note 3 with the calculation of root protection.

<http://www.planning.northlincs.gov.uk/PlanningReports/LocalPlan/SPG11TreesandDevelopment6.pdf>

Tree surveys carried out in accordance with the current British Standards Institute Guidance '*BS5837: Trees in relation to construction - Recommendations*' as referred to in the NSAF will also be acceptable providing that any calculation of root protection areas takes into consideration other design constraints, in particular as referred to in paragraph 5.3 – Above Ground Constraints, sub paragraphs 5.3.1 and 5.3.2 of that document.

The land concerned may also contain hedgerows which may be considered "important" within the meaning of the Hedgerow Regulations 1997 – Statutory Instrument No. 1160. A survey of all hedgerows together with an assessment of importance, condition and amenity value, is advised therefore.

Planning and Design.

The landscaping of a development site is an important material planning consideration. Policy in the existing save planning policy seeks to ensure sustainable design for the benefit of future generations and this policy approach is a major element of the emerging Local Development Framework.

NLC Responses to Able UK Marine Energy Park Informal Consultation

In particular Policy CS5 of the Core Strategy requires that all new development in North Lincolnshire is well designed and contributes toward creating a sense of place. In line with central government advice upon design (Planning Policy Statement 1), design that is inappropriate or fails to maximise opportunities for improving the character and quality of an area will not be acceptable.

With respect to the landscaping of development sites as an important design feature all design should: -

- Incorporate the principles of sustainable development throughout the whole design process. This will include site layout, minimising energy consumption, and maximising use of on-site renewable forms of energy whilst militating against the impacts of climate change; for instance flood risk.
- Consider the relationship between any buildings and the spaces around them, **and** how they interact with each other as well as the surrounding area. The function of buildings should also be considered in terms of its appropriateness for the context in which it is located.
- Create attractive, accessible and easily distinguishable public and private spaces that complement the built form.
- Incorporate appropriate landscaping and planting which enhances biodiversity or geological features whilst contributing to the creation of a network of linked green spaces across the area. Tree planting and landscaping schemes can also assist in minimising the impacts of carbon emissions upon the environment.

Planning applications are required to be determined in accordance with the development plan (if it has policies relevant to the case), unless material consideration indicates otherwise (S54A Town and Country Planning Act 1990). Protection of existing landscapes and creation of new landscape features are material considerations, see Policy DS1 and LC12 of the North Lincolnshire Local Plan May 2003. In the particular circumstances of this application Policy LC20 of the Local Plan also refers.

<http://www.planning.northlincs.gov.uk/PlanningReports/NorthLincolnshireLocalPlan/DevelopmentStandards2.pdf>

<http://www.planning.northlincs.gov.uk/PlanningReports/NorthLincolnshireLocalPlan/LandscapeandConservation2.pdf>

The form, location, massing, material specification and appearance of buildings is a material planning consideration that needs to be addressed in accordance with Policy DS1 and LC20.

The size, scale and height of the proposed buildings are likely to be considerable. Clearly, for a landscape design to be effective in such circumstances the use of large native trees is likely to be needed. This is a large site likely to accommodate large buildings and extensive open areas therefore, the use of large native species trees of local provenance forming linear and block form features in a new landscape is likely to be an important consideration. In particular, accurate information concerning species and available space for planting in accordance with North Lincolnshire Council's Supplementary Planning Guidance: Trees and Development would be of assistance as would information concerning tree pit design and the future maintenance of such trees.

There may be issues here concerning road adoption standards and planting if the roadways are to be adopted. In general roads adopted with trees within the adoptable area tend to specify small decorative trees for fear of future maintenance costs – tree roots damaging road construction. Whilst most of these concerns are unfounded such requirements have become standard and are difficult to overcome. Further discussion concerning such issues is therefore, needed and space may be needed to be made adjacent the adopted highway to accommodate the scale of tree needed.

In addition, whilst the exact form, design and external appearance of buildings is not known, the scale indicated is such that landscape planting would be to compliment design as distinct to masking buildings. The applicants should therefore, reconsider their decisions concerning the colour of the buildings. A more sophisticated approach to colour on very large buildings is available and pays dividends both in design terms and visual impact.

Advice – Historic Assets and Landscape Characterisation.

The council has commissioned a Historic Landscape Characterisation (HLC) for its area. This information is likely to be available during the course of the proposal and should be read in conjunction with existing landscape assessments.

Traditionally, archaeologists have looked at individual archaeological monuments without giving much attention to the areas between them. The setting of individual historic assets should be assessed in accordance with policy set out in Planning Policy Statement 5 – Planning for the Historic Environment (and the accompanying guide): -

<http://www.communities.gov.uk/publications/planningandbuilding/pps5>

NLC Responses to Able UK Marine Energy Park Informal Consultation

The wider landscape forming the setting of these assets however, remains one of the least understood elements of the historic environment. To rectify this, North Lincolnshire is working in a partnership which will deliver mapping for the entire historic landscape of the borough. HLC is promoted by English Heritage and, alongside the English survey, similar projects are also running in Scotland and Wales.

<http://www.english-heritage.org.uk/professional/research/landscapes-and-areas/characterisation>

Further information concerning the HLC for North Lincolnshire can be obtained through the Council's Environment Team. Contact – Ian Goldthorpe 01724 297483.

There are no listed buildings within the site area as proposed. The nearest such buildings are the three Humber navigation lighthouses to the south of the site [All Grade II]. Any assessment of impacts upon historic assets should therefore, take into consideration through the EIA process the impact of development upon the setting of these buildings. Guidance upon this is contained in Planning Policy Statement 5.

Other listed buildings the setting of which should be considered include the various listed assemblages at Thornton Abby – in particular the Gate House [Grade I]. North Killingholme Manor [Grade I], and the Grade 1 listed church of St Peter at East Halton.

4. NLC Sites and Monuments Response

Thank you for the opportunity to comment on this Informal Pre-Application Consultation. My comments will relate to the historic environment, specifically the heritage assets, terrestrial and marine, and the historic landscape character.

I welcome Able UK's undertaking to further investigate the impacts of their proposed development on the historic environment (9.4), and I am aware that their consultant has already commenced assessment studies.

As noted in the consultation document, there are no statutory designations within the proposed development site, there are however thirty-five non-designated heritage assets recorded on the North Lincolnshire Historic Environment Record within this area. These include a wide range of heritage assets from ancient occupation sites dating from the Iron Age and Roman periods, find scatters of material ranging in date from the Mesolithic to the Roman period, historically important hedgerows, and World War 1 military defence sites. Other recorded sites include features of potential archaeological origin identified during previous geophysical surveys that have not yet been confirmed through intrusive investigation. The proposed development site, including the intertidal and marine areas, has the potential to contain other, as yet unrecognised, heritage assets, as well as palaeoenvironmental deposits that may contain significant evidence of past environments, climate change events and sea level rises.

Environmental impact assessment on the significance of heritage assets and the historic environment should thus include desk study and field investigations to be undertaken in accordance with the procedures set out in the draft NPS for Ports (paras. 2.24.1-20), PPS5 Planning for The Historic Environment and the accompanying Practice Guide, and local plan policies HE8 & 9.

The results of these assessments will enable the IPC to make informed decisions regarding development affecting any significant heritage assets, and any mitigation and/or recording that may be appropriate to conserve such features.

The northern half of the proposed application site has already been the subject of archaeological assessment for recent developments. The sustainability of mitigation measures taken to secure the in situ preservation of significant heritage assets in these areas will require consideration during the EIA.

The construction of the quay and the proposed dredging operations will require assessment of the impact on the heritage resource of the intertidal and marine environments; this may involve assessment of specialist data and techniques undertaken for other aspects of the marine EIA, such as bathymetry surveys. English Heritage has responsibility for the marine historic environment and their Regional Science Advisor should be consulted on this specific aspect of the assessment (andy.hammon@english-heritage.org.uk).

There are three statutory designated heritage assets, the Grade II Killingholme Lighthouses, located along the Humber flood defence less than 1km from the southeast boundary of the site. The EIA will need to include an assessment of the visual impact of the development on these built structures, as well as on other more distant designated heritage assets, including Thornton Abbey and the Grade 1 listed church of St Peter at East Halton. This visual impact assessment of the heritage

NLC Responses to Able UK Marine Energy Park Informal Consultation

assets should be distinct from the general Landscape and Visual impact assessment, but following similar methodology.

Impact on the historic landscape character will also need to be assessed, and the emergent historic landscape characterisation project for Lincolnshire should be used. Wherever possible extant historic landscape features such as any historically significant hedgerows, relict earthworks and ridge and furrow, as well as the historic pattern of the landscape and field boundaries should be retained and enhanced.

Any preliminary proposals for landscaping the new development, including that within the LC20 area of the site, will need to be included in the heritage impact assessment. The development of a detailed landscape strategy and conservation management plans for the site should take full account of the impact on heritage assets and should be developed in conjunction with the heritage mitigation strategy. This should include seeking opportunities to incorporate historic landscape features, and to conserve, enhance and interpret heritage assets for public benefit.

It will also be important to consider the impact on the heritage resource of any compensatory land that may be required to replace that which is being lost from the Humber Estuary SAC/SPA.

All heritage asset and historic landscape assessments should be undertaken by suitably qualified organisations and conform to IfA Standards and Guidance, following the relevant recognised industry guidelines.

Alison Williams,

Sites and Monuments Record, North Lincolnshire Museum, Asset Management and Culture (297055 Ext: 105)

5. Public Rights of Way Response

Public Footpath 50 runs along the Humber bank throughout the site. Paragraph 8.4 of Able UK's application document states that the footpath will be diverted to the opposite outer side of the site and therefore away from the river. However, if this is to be done by the making an order under section 257 of the Town and Country Planning Act 1990, the public will have the opportunity to make objections and representations. Moreover, there remains a strong possibility that Natural England will continue the national coastal trail up the Humber to the Humber Bridge. If so, FP50 will be part of that extension.

The viability of the proposed diversion could well depend on whether a public footpath is first created within the current Able UK application site in East Halton linking FP74 and FP77. This could give users of FP50 and the national coastal trail a suitable means of bypassing Killingholme Marshes and North Killingholme Haven. The creation could make the difference between whether the diversion Able UK want at Killingholme Marshes succeeds or fails. Arguably, the latter is illogical without the former.

From: Jodie Booth/HP/NorthLincs
To: William J Hill/HP/NorthLincs@NorthLincs

Date: Thursday, October 07, 2010 11:41AM
Subject: ABLE request from the IPC

Hi Bill,
Further to the letter sent to Mike Welton from the IPC, regarding the EIA,
please find the following comments from Transport Planning:

Whilst we can not offer any direct comments on the EIA, with regards to the transport issues with this application I have the following comments. Please take note of our initial comments in response to the informal consultation Able undertook in July 2010, in which we stated that, as a statutory consultee we would require a full Transport Assessment to be prepared to allow us to comment further on any potential transport issues. Of course, this would include the usual transport considerations such as junction assessments, routing of traffic (both HGVs and employees), accident data etc. I have initially directed the applicant to our guidance on TAs on the website. Further to this we have held an initial Scoping meeting with their transport consultants, Able and the Highways Agency and have made comments on their initial first draft of a scoping report for a Transport Assessment and Travel Plan.

Hope these comments are of help for your response.

Regards,
Jodie

Jodie Booth
Transport Planning Manager
North Lincolnshire Council
Tel: 01724 297373
Mob: 07717 587554

This e-mail expresses the opinion of the author and is not necessarily the view of the Council. Please be aware that anything included in an e-mail may have to be disclosed under the Freedom of Information Act and cannot be regarded as confidential. This communication is intended for the addressee(s) only. Please notify the sender if received in error. All Email is monitored and recorded.
Please think before you print- North Lincolnshire Council greening the workplace.

From: Jodie Booth/HP/NorthLincs
To: rcram@ableuk.com
cc: Geoff Popple/HT/NorthLincs@NorthLincs, Pete Scott/HP/NorthLincs@NorthLincs, Marcus Walker/PL/NorthLincs@NorthLincs, William J Hill/HP/NorthLincs@NorthLincs, Chris Barwell/PL/NorthLincs@NorthLincs, Andrew Taylor/PL/NorthLincs@NorthLincs, Mike Welton/PL/NorthLincs@NorthLincs, Barry Fleetwood/SC/NorthLincs@NorthLincs, Gordon Kell/SC/NorthLincs@NorthLincs

Date: Wednesday, September 08, 2010 04:57PM
Subject: Fw: Able Marine Energy Park - Informal consultation

Hi Richard,

Further to my email below in response to the informal consultation request for the proposed Marine Energy Park on the South Humber Gateway, it appears that my comments from Highways were missed in the collective response from North Lincolnshire. Therefore, please see my response, sent on 29 July 2010, for your information/use.

Apologies for any inconvenience.

Kind Regards,

Jodie

Jodie Booth

Transport Planning Manager

North Lincolnshire Council

Tel: 01724 297373

Mob: 07717 587554

-----Forwarded by Jodie Booth/HP/NorthLincs on 08/09/2010 04:52PM -----

To: Gordon Kell/SC/NorthLincs@NorthLincs
From: Jodie Booth/HP/NorthLincs
Date: 29/07/2010 03:21PM
cc: Marcus Walker/PL/NorthLincs@NorthLincs, Geoff Popple/HT/NorthLincs@NorthLincs, Pete Scott/HP/NorthLincs@NorthLincs, Neil Norvock/HT/NorthLincs@NorthLincs
Subject: Fw: Able Marine Energy Park - Informal consultation

Hi Gordon,

Further to the email below. I would like to offer Transportation's initial comments to the consultation and subsequent initial meetings with Able UK (and colleagues) regarding the proposed Able Marine Energy Park.

Of course, we support any proposal that will bring in economic benefits and

employment to the area , particularly in an area of strategic importance, such as the South Humber Gateway. We recognise and acknowledge that this consultation/proposal is in its early stages and therefore, are unable to offer any in depth assessment or comments on the proposal from a Transportation point of view. However, it is fair to say that we are working with Able UK, the Highways Agency and consultants involved to ensure that we deal with all traffic assessment and travel planning issues that may be associated with this development. This has so far involved a couple of meetings to discuss the proposals in principle and we now await for further information to start the transport assessment process. First, in the production by Able and their consultants, of a scope for assessment.

We have built a good working relationship with Able and partners on the South Humber Gateway over previous years and hope to continue to build on that in dealing with this application to the benefits of all parties.

Whilst, as mentioned, I am unable to comment in detail until further detailed information is received, I hope these comments are of use to you.

Kind Regards,

Jodie

Jodie Booth

Transport Planning Manager

North Lincolnshire Council

Tel: 01724 297373

Mob: 07717 587554

-----Forwarded by Jodie Booth/HP/NorthLincs on 29/07/2010 03:13PM -----

To: Lesley Potts/PL/NorthLincs@NorthLincs, Jenny Couch/PL/NorthLincs@NorthLincs, Mike Welton/PL/NorthLincs@NorthLincs, Paul Taylor/PL/NorthLincs@NorthLincs, Pete Scott/HP/NorthLincs@NorthLincs, Jodie Booth/HP/NorthLincs@NorthLincs, Tim Allen/PL/NorthLincs@NorthLincs, Sally Grindrod/LDS/NorthLincs@NorthLincs, Chris Barwell/PL/NorthLincs@NorthLincs, Liz Hamer/NE/NorthLincs@NorthLincs, Laura Farr/PL/NorthLincs@NorthLincs, Trevor Honess/PL/NorthLincs@NorthLincs, Iain Cunningham/PL/NorthLincs@NorthLincs, Ulrike Dearden/PL/NorthLincs@NorthLincs, Kath Jickells/NE/NorthLincs@NorthLincs, Ian Goldthorpe/PL/NorthLincs@NorthLincs, William J Hill/HP/NorthLincs@NorthLincs, David Wordsworth/PL/NorthLincs@NorthLincs, Jo Wright/SRHD/NorthLincs@NorthLincs, Alison Williams/LE/NorthLincs@NorthLincs
 From: Marcus Walker/PL/NorthLincs
 Sent by: Mary Ling/PL/NorthLincs

Date: 26/07/2010 10:50AM

cc: Gordon Kell/SC/NorthLincs@NorthLincs, Barry

Fleetwood/SC/NorthLincs@NorthLincs

Subject: Fw: Able Marine Energy Park - Informal consultation

Further to my email below. Please see link to Informal Consultation Document.

<http://www.ablehumberport.com/ipcapplication-initial.htm>

Marcus

----- Forwarded by Mary Ling/PL/NorthLincs on 26/07/2010 10:46 -----

Marcus

Walker/PL/NorthLincs

Sent by: Mary

Ling/PL/NorthLincs

26/07/2010 10:35

To Lesley Potts/PL/NorthLincs
Jenny

Couch/PL/NorthLincs@N

Welton/PL/NorthLincs@I

Taylor/PL/NorthLincs@N

Scott/HP/NorthLincs@N

Booth/HP/NorthLincs@N

Allen/PL/NorthLincs@N

Grindrod/LDS/NorthLinc

Chris

Barwell/PL/NorthLincs@

Hamer/NE/NorthLincs@I

Laura Farr/PL/NorthLinc

Trevor

Honess/PL/NorthLincs@

Cunningham/PL/NorthLi

Ulrike

Dearden/PL/NorthLincs@

Kath

Jickells/NE/NorthLincs@

Goldthorpe/PL/NorthLinc

William J

Hill/HP/NorthLincs@N

Wordsworth/PL/NorthLir

Jo

Wright/SRHD/NorthLinc

Alison Williams/LE/North

cc Gordon Kell/SC/NorthLir
Barry

Fleetwood/SC/NorthLinc

SubjectAble Marine Energy Park
consultation

Can you forward to Gordon Kell, South Humber Gateway Development
Manager, your responses to the above consultation by the 31 July 2010.

Many thanks

Marcus

This e-mail expresses the opinion of the author and is not necessarily the view of the Council. Please be aware that anything included in an e-mail may have to be disclosed under the Freedom of Information Act and cannot be regarded as confidential. This communication is intended for the addressee(s) only. Please notify the sender if received in error. All Email is monitored and recorded.

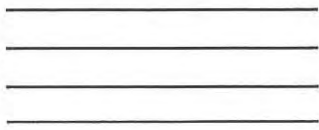
Please think before you print- North Lincolnshire Council greening the workplace.

This e-mail expresses the opinion of the author and is not necessarily the view of the Council. Please be aware that anything included in an e-mail may have to be disclosed under the Freedom of Information Act and cannot be regarded as confidential. This communication is intended for the addressee(s) only. Please notify the sender if received in error. All Email is monitored and recorded.

Please think before you print- North Lincolnshire Council greening the workplace.

PLANNING AND REGENERATION
ENVIRONMENT TEAM

I N T E R



MEMO

O F F I C E



To: Lynda Morton, Development Control

From: Ian Goldthorpe

Our Ref IG/North and South Killingholme

Date: 8th October 2010

**Re Scoping Opinion – IPC (Environmental Impact Assessment)
Regulations 2009 SI 2263 (“the EIA Regulations”)
Proposed Bio Mass Power Station and Port Facility. North and South
Killingholme.**

Environment Team Advice

The Team notes that the proposed development will require an accompanying assessment under The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as variously amended). These comments are given without prejudice to any future decision or further comments, which may be made upon receipt of a formal consultation or application. The comments as detailed below are informed by a reading of the Scoping Report 2010 but also incorporate comments made upon an informal consultation issued by the applicants on essentially the same proposal issued earlier this year.

Team comments are given under the following headings:-

1. Wildlife and Ecology.
2. Public Rights of Way – Highway Authority Response.
3. Landscape Assessment.
4. Trees and Landscape.
5. Planning and Design.
6. Historic assets and Landscape Characterisation

1. Wildlife and Ecology

1.1 Comments on Environmental Scoping Report September 2010.

- **Proposal for a helipad.** Liley et al. (2010) report that low-flying helicopters are a source of disturbance to water birds using the Humber Estuary SPA & Ramsar site.

- **24-hour working.** It is understood that this has a greater potential for disturbance to water birds, bats and other wildlife than other operations in the South Humber Gateway.
- **Biomass power station ash store.** This could lead to problems of dust, airborne and water-borne pollution and a range of impacts on nearby habitats and sensitive species.
- **Referenced 2006-07 Coastal Bird Survey.** *This is not adequate to enable the impacts of this project to be properly assessed.* Consideration of the Able UK PA/2009/0600 application has revealed that this survey work did not identify or consider known concentrations of birds or those revealed by other surveys such as WeBS, ABP surveys and the Humber INCA surveys carried out by Graham Catley. This may be due to the monthly, rather than weekly surveys and/or deficiencies in field methods or fieldcraft. Furthermore, there appear to be deficiencies in reporting methods such that important species such as ruff are not highlighted. It is strongly recommended that all available data sources as listed above are used in compiling this assessment along with bespoke and more frequent surveys to highlight the particular areas of WeBS sector ISJ that are used by given bird species, and at what times. The monitoring of flight lines and vantage point surveys are welcomed and it is strongly recommended that methods, timing and level of survey effort are agreed with Natural England.
- **Section 6.4,** Various issues referred to as part of the informal consultation are not covered. These include impacts on locally designated sites (which may also be UK BAP priority habitats) and invertebrates, among others.
- **Section 6.4.12- requests for data.** These need to be made to both the Humber Environmental Data Centre and the Lincolnshire Environmental Records Centre. It would also be useful to approach ABP MER for any data that they are able to release.
- **Bird disturbance and displacement effects.** It is worth noting that these need to be considered in terms of North Killingholme Haven Pits SSSI and Rosper Road Pools Nature Reserve as well as the Humber Estuary itself.
- **Table 6.5.** This refers to the restriction of flows in North Killingholme Haven Pits SSSI due to silting, leading to stagnation, algal proliferation and subsequent effects on other species. This needs to be considered in both the ES and any appropriate assessment as a likely significant effect on the SPA/Ramsar site. The effects of cooling water abstraction on lampreys also need to be considered.
- **6.4.27,** effects on Local Wildlife Sites and Estuary geomorphology need to be inserted.

All of the above issues need to be addressed in the ES.

Section 6.2 on the Hydrodynamic and Sedimentary regime seems acceptable, the opinion of Natural England in this matter will be required however .

Section 6.3 on the Water Environment is acceptable save that the effects of water discharges need to be considered cumulatively and in combination with the Drax Heron Plan Proposal.

Sections 6.7 and 6.9 on noise and light pollution appear acceptable.

References

Liley, D., Cruickshanks, K., Fearnley, H., Stillman, R., Harvell, P., Hoskin, R. & Underhill-Day, J. (2010). Desk Based Study on Recreational Disturbance to birds on the Humber Estuary. Footprint Ecology / Humber Management Scheme.

1.2 Comments on Informal Pre-Application Consultation Document- July 2010

For such a large and complex proposal, we would expect detailed consideration of alternatives, both in terms of the EIA regulations and Habitats Regulations. Further guidance on alternatives is given in Appendix 1 of this document.

In terms of any adverse environmental impacts identified, the ES should discuss measures to avoid the impacts and possible alternative solutions, as well as mitigation and/or compensation. Applying PPS9, Circular 06/05 and Section 28G of the Countryside and Rights of Way Act 2000, North Lincolnshire Council should also be seeking biodiversity enhancement and enhancement of the features for which the adjacent SSSIs are designated. This may include habitat networks and wildlife corridors.

1.2.1 Requirements for Ecological Information

All ecological works should be carried out in accordance with the standards in the IEEM guidance on Ecological Impact Assessment. The following areas should be covered- detailed guidance is given in Appendix 2 of this document:

- i) Habitat survey
- ii) Badgers
- iii) Bats
- iv) Reptiles
- v) Amphibians
- vi) Breeding birds
- vii) Wintering/passage birds
- viii) Water voles
- ix) Vascular plants
- x) Invertebrates- aquatic, terrestrial and benthic.
- xi) Important Hedgerows.
- xii) Trees with Tree Preservation Orders.
- xiii) Any protected or priority species or habitats not listed above should be addressed in the ES if they are revealed through surveys or if there is a reasonable likelihood of them being affected by the proposal.

1.2.2 Requirements for physical and geomorphological information

The following areas should be covered- detailed guidance is given in Appendix 3 of this document:

- i) Estuarine information- estuarine processes and geomorphology.
- ii) Information require to underpin habitat creation and landscaping.

1.2.3 Likely Impacts

- i) Loss of Station Road Field Local Wildlife Site (at Ordnance Survey Grid reference TA167181). This is a site with neutral grassland, wet ditches, hardstanding colonised by plants typical of previously developed land and two ponds with great crested newts (see below).
- ii) Possible loss and/or obstruction of bat roosts and likely loss of bat foraging habitat. All UK bats are European Protected Species.
- iii) Loss of a breeding pond and terrestrial habitat for great crested newts. The great crested newt is a European Protected Species (EPS). Therefore such loss could only be consented where a) it would not affect the range and favourable conservation status of the species, b) where there is no alternative AND c) where there are reasons of over-riding public interest. Evidence for the three tests (a-c above) needs to be recorded by the decision maker- in advance of any EPS licence application. Retention of the pond and terrestrial habitat on-site needs to be considered as an alternative.
- iv) Loss of UK BAP priority farmland bird species and their habitat; along with the potential for damage to birds' eggs, nests and young through any works carried out during the breeding season.
- v) Loss of farmland currently used by flocks of around 100 wintering/passage curlew associated with the nearby intertidal habitat of the Humber Estuary SPA/Ramsar.
- vi) Harm to water voles and loss of their habitat.

- vii) Loss of parish boundary hedgerows and trees with Tree Preservation Orders.

1.2.4 The Conservation of Habitats and Species Regulations 2010- Implications for the Humber Estuary SAC, SPA and Ramsar Site.

It is agreed (Informal Consultation Document section 9) that the proposed project is likely to have a significant effect (LSE) on the above sites, that an appropriate assessment will be needed and that it cannot be demonstrated the project will not have an adverse effect on the integrity (AEOI) of the above sites. The latter point can be inferred from the suggestion that compensatory habitat will be required.

Given that there could be an adverse effect on the integrity of the Humber Estuary SPA, SAC and Ramsar sites, the project can only be consented if there are no alternatives to the proposal, and then if there are imperative reasons of over-riding public interest (IROPI) for the project. If both of those conditions are met then the Secretary of State "must secure that any necessary compensatory measures are taken to ensure that the overall coherence of Natura 2000 is protected"- Reg 66.

With this project, likely significant effects (and hence potential AEOI) include:

- i) Loss of a large area of subtidal habitat.
- ii) Loss of a large area of intertidal habitat- primarily mudflats.
- iii) Impacts on estuarine flows and patterns of sediment erosion and deposition.
- iv) Loss of farmland currently used by flocks of around 100 wintering/passage curlew associated with the nearby intertidal habitat of the Humber Estuary SPA/Ramsar.
- v) Permanent displacement of waterbirds using intertidal habitat in WeBS sector ISJ, including the vast majority of the estuary's black-tailed godwits and a high proportion of the site's ruff.
- vi) Permanent displacement of waterbirds using North Killingholme Haven Pits SSSI (NKHP), including the vast majority of the estuary's black-tailed godwits and a high proportion of the site's ruff. The site also holds breeding and wintering avocet and large numbers of other species listed in the SPA and Ramsar citations. Development is proposed immediately adjacent to NKHP, potentially leading to disturbance to the birds. Displacement of birds from ISJ (see above) may result in a consequent displacement from NKHP if the link between the sites is disrupted. Furthermore, it is proposed that wind turbines will be constructed and moved in an upright position around the quay and the current line of the floodbank. For birds attempting to fly to NKHP from ISJ and Pyewipe, this will be akin to flying through a windfarm. There is now a body of evidence showing that wading birds can be displaced for distance of several hundred metres around wind turbines.
- vii) Birdstrike during any rotor testing of wind turbines.
- viii) Permanent displacement of waterbirds using Rosper Road Pools Lincolnshire Wildlife Trust Reserve, due to this project acting in combination with the Heron Energy plant proposal.
- ix) Temporary disturbance and displacement of various groups of waterbirds from various locations during the construction phase of the proposal, alone and in combination with other plans and projects.
- x) Creation of new structures that may harbour avian predators such as gulls, crows and birds of prey.
- xi) Potential impacts on River and Sea Lamprey, whose movements are little known.

All of the above impacts need to be considered alone and in combination with other plans and projects including (but not limited to):

1. PA/2009/0600 Able UK proposal at East Halton.
2. Drax Heron Energy Plant
3. Humber Unitary authorities' Local Plans and Local Development Documents.
4. Environment Agency Humber Flood Risk Management Strategy.

5. Killingholme Marshes Drainage Scheme.

1.2.5 Mitigation and Compensation under the Habitats Regulations

The major adverse effects for this project relate to loss of intertidal and subtidal habitat that is intimately related to major high tide roost sites at NKHP and Killingholme Marshes. Any package of compensation therefore, needs to be able deliver, subtidal, saltmarsh and mudflat habitats of adequate extent to compensate for the losses. There will need to be high tide roosting and feeding habitat comparable to NKHP adjacent to the new estuarine habitats. The package of estuarine and high tide habitats should be demonstrably capable of supporting thousands of black-tailed godwits and the other elements of the waterbird assemblage displaced from the area of the application site.

Assuming that compensation will be proposed largely through managed realignment of sections of estuary, reference should be made to the findings of the Humber Estuary Managed Realignment Monitoring Group. At other managed realignment sites, anticipated mudflat areas have accreted more rapidly than expected, creating saltmarsh and even terrestrial habitats. Sediment has been of a different quality from the neighbouring mudflats and invertebrate communities have sometimes been of a terrestrial rather than benthic nature. Consequently, birds have used the sites more for roosting and less for feeding than expected. The applicant will need to be able to demonstrate that these pitfalls could be avoided in order to give confidence in the proposed mitigation and compensation.

1.2.6 Assessments of impact of compensatory measures.

Given the above it is likely that the proposed development will have to be linked to mitigation provisions under the Habitat and C Regulations. It will also be important and necessary therefore, for the ES to consider the impact on designated wildlife and habitats of any compensatory land that may be required to replace that which is being lost from the Humber Estuary SAC/SPA. Without such an assessment – made largely in the terms referred to above – the IPC will not be able to properly and fully account for the environmental impact of the proposal.

1.2.7 Offsite effects

A) Greenhouse gases and climate change

Part of the rationale for the public benefit from this proposal is that it will contribute to the nation's "green energy", thus minimising emissions of greenhouse gases. These benefits need to be properly assessed, before being weighed against the impacts. Thus it would be helpful to have a full carbon budget for the proposal. Whilst wind turbines and the biomass power station have the potential to be carbon-neutral in the long-term, other elements of the project, such as the use of large quantities of concrete, and the transport of fuels and materials, result in significant carbon emissions.

B) Marine sands and gravels

The Environment Team's understanding is that large quantities of marine-dredged sands and gravels are proposed to be used in the construction of the quay. Marine sand and gravel extraction has significant potential to affect benthic communities and wider marine ecosystems, though the magnitude, duration and reversibility of these effects are a matter of considerable academic debate. In order to assess environmental effects fully, it will be necessary to consider information on the location, duration and scale of marine extraction, along with any projected impacts.

C) PPS9 and the Potential for Biodiversity and Landscape Enhancement

See Planning and Design below.

2. Public Rights of Way – Highway Authority Response.

Public Footpath 50 runs along the Humber bank throughout the site. Paragraph 8.4 of Able UK's application document states that the footpath will be diverted to the opposite outer side of the site and therefore away from the river. However, if this is to be done by the making an order under section 257 of the Town and Country Planning Act 1990, the public will have the opportunity to make objections and representations. Moreover, there remains a strong possibility that Natural England will continue the national coastal trail up the Humber to the Humber Bridge. If so, FP50 will be part of that extension.

The viability of the proposed diversion could well depend on whether a public footpath is first created within the current Able UK application site in East Halton linking FP74 and FP77. This could give users of FP50 and the national coastal trail a suitable means of bypassing Killingholme Marshes and North Killingholme Haven. The creation could make the difference between whether the diversion Able UK want at Killingholme Marshes succeeds or fails. Arguably, the latter is illogical without the former.

The impact of development upon the public right of way network is a material planning consideration. The Council's preferred approach to such matters is set out in a saved Supplementary Planning Guidance document – SPG 4. Public Rights of Way. Follow link to: -

<http://www.planning.northlincs.gov.uk/PlanningReports/LocalPlan/SPG4PublicRightsOfWay.pdf>

3. Landscape Assessment.

In producing Environmental Statements it is normal procedure were a proposed development is likely to have a significant environmental impact in landscape and visual terms to include an assessment of impact upon the character of the landscape and upon visual amenity. The Environment Team is of the opinion that this will be the case and advises that the council requests that a full Landscape and Visual Impact Assessment (LVIA) is provided. The council notes the proposer's stated intention to undertake such an assessment and offers the following comments.

Any such assessment should be based upon a rational system of assessment and it is suggested that the development of such a scheme could be informed by publications such as: -

- Guidelines for Landscape and Visual Effect Assessment (Landscape Institute and Institute of Environmental Management and Assessment, Second edition 2002), and;
- Guidelines on the Environmental Effect of Wind Farms and Small Hydroelectrically schemes (Scottish Natural Heritage 2002), and;
- Guidelines: Cumulative Effect of Wind Farms, Version 2, (Scottish Natural Heritage, revised 13th April, 2005).

The Landscape Institute guidance will be useful for the development of systems of landscape assessment for the site as a whole and in particular for the assessment of the landscape and visual impact of the proposed bio mass power station upon the landscape generally and for assessment of the proposed quay upon the landscape, including any impacts upon the landscapes of the Humber.

The council notes the presence of an existing power station close to the proposed site together with significant development of plant and infrastructure associated with the petro chemical industry. For this reason it is suggested that a separate assessment of the impact and cumulative impact of these structures upon the landscape and upon visual receptors of various kinds is considered.

Any assessment of impact thought necessary in these terms or more generally, should refer to existing local and national landscape characterisations and advice: -

<http://www.planning.northlincs.gov.uk/PlanningReports/LocalPlan/SPG5CountrysideDesignSummary.pdf>

<http://www.planning.northlincs.gov.uk/PlanningReports/LocalPlan/SPG5LandscapeCharacterAssessment.pdf>

http://www.naturalengland.org.uk/ourwork/landscape/englands/character/areas/humber_estuary.aspx

It should be noted that the height of any proposed flue stacks may require an impact assessment over a wide area. Such an assessment is likely therefore, to have to included information arising from other national and local landscape character assessments.

In addition current guidance from Scottish Heritage on assessing the landscape and visual impact of wind turbine development may also be relevant because the proposal involves the presence on the site of wind turbines.

http://www.snh.org.uk/pdfs/publications/commissioned_reports/f01aa303a.pdf

An assessment of this kind is though necessary as one likely means of transporting these to offshore locations is as completed components to be placed upon pre assembled and located base units let into the sea floor. Unusually, these component structures will be transitory at the site in that once erected they will be transported out to sea. At any one time however, should permission for the proposal be given, it is likely that several wind turbines to a height in excess of 250 meters to rota tip, will be present at the site during various stages of construction. For this reason it is suggested that a separate assessment of the impact and cumulative impact of these structures upon the wider landscape and upon visual receptors of various kinds is made.

It should be noted that the presence of wind turbines under construction is likely to require an impact assessment over a much wider area than would be required for the quay or, indeed, the power station. This is likely to included information arising from other national and local landscape character assessments.

<http://www.naturalengland.org.uk/ourwork/landscape/englands/character/areas>

4. Trees and Landscape.

Section 197 of the Town and Country Planning Act 1990 imposes a duty upon local planning authorities to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees.

This duty is reflected in the wording of the National Standard Application Form (NSAF). Where there are trees on or adjacent a proposed development site then, at the discretion of the local planning authority, a tree survey may be needed.

If this is the case the applicant will have to provide a full tree survey as set out on the Council's website at SPG 11 – Trees and Development. Guidance Note 1 deals with site and tree surveys. Guidance Note 3 with the calculation of root protection.

<http://www.planning.northlincs.gov.uk/PlanningReports/LocalPlan/SPG11TreesandDevelopment6.pdf>

Tree surveys carried out in accordance with the current British Standards Institute Guidance '*BS5837: Trees in relation to construction - Recommendations*' as referred to in the NSAF will also be acceptable providing that any calculation of root protection areas takes into consideration other design constraints, in particular as referred to in paragraph 5.3 – Above Ground Constraints, sub paragraphs 5.3.1 and 5.3.2 of that document.

The land concerned may also contain hedgerows which may be considered "important" within the meaning of the Hedgerow Regulations 1997 – Statutory Instrument No. 1160. A survey of all hedgerows together with an assessment of importance, condition and amenity value, is advised therefore.

5. Planning and Design.

Section 4.4 of the scoping report appears to give a highly selective account of North Lincolnshire Local Plan Policies. Other policies also need to be discussed, including policies on landscape, designated sites, habitat creation, protected species, trees and hedgerows, design standards, sustainability etc.

The landscaping of a development site is an important material planning consideration. Policy in the existing save planning policy seeks to ensure sustainable design for the benefit of future generations and this policy approach is a major element of the emerging Local Development Framework.

In particular Policy CS5 of the Core Strategy requires that all new development in North Lincolnshire is well designed and contributes toward creating a sense of place. In line with central government advice upon design (Planning Policy Statement 1), design that is inappropriate or fails to maximise opportunities for improving the character and quality of an area will not be acceptable.

With respect to the landscaping of development sites as an important design feature all design should: -

- Incorporate the principles of sustainable development throughout the whole design process. This will include site layout, minimising energy

consumption, and maximising use of on-site renewable forms of energy whilst militating against the impacts of climate change; for instance flood risk.

- Consider the relationship between considered in terms of its appropriateness for the context in which it is located.
- Create attractive, accessible and easily distinguishable public and private spaces that complement the built form.
- Incorporate appropriate landscaping and planting which enhances biodiversity or geological features whilst contributing to the creation of a network of linked green spaces across the area. Tree planting and landscaping schemes can also assist in minimising the impacts of carbon emissions upon the environment.

Planning applications are required to be determined in accordance with the development plan (if it has policies relevant to the case), unless material consideration indicates otherwise (S54A Town and Country Planning Act 1990). Protection of existing landscapes and creation of new landscape features are material considerations, see Policy DS1 and LC12 of the North Lincolnshire Local Plan May 2003. In the particular circumstances of this application Policy LC20 of the Local Plan also refers.

<http://www.planning.northlincs.gov.uk/PlanningReports/NorthLincolnshireLocalPlan/DevelopmentStandards2.pdf>

<http://www.planning.northlincs.gov.uk/PlanningReports/NorthLincolnshireLocalPlan/LandscapeandConservation2.pdf>

The form, location, massing, material specification and appearance of buildings is a material planning consideration that needs to be addressed in accordance with Policy DS1 and LC20.

The size, scale and height of the proposed plant/buildings are likely to be considerable. This is a site likely to accommodate large plant/buildings and extensive open areas therefore, the use of large native specie trees of local provenance forming linear and block form features in a new landscape is likely to be an important consideration. In particular, accurate information concerning species and available space for planting in accordance with North Lincolnshire Council's Supplementary Planning Guidance: Trees and Development would be of assistance as would information concerning tree pit design and the future maintainance of such trees.

<http://www.planning.northlincs.gov.uk/PlanningReports/LocalPlan/SPG11TreesandDevelopment6.pdf>

There may be issues here concerning road adoption standards and planting if the roadways are to be adopted. In general the placing of trees within narrow highway verges is not successful and consideration should be given to providing space to plant groups of trees. The Highway Authority has produced design guidance for Industrial standard roads which is available at: -

<http://www.northlincs.gov.uk/NorthLincs/Transportandstreets/roads/DevelopmentGuides.htm>

Further discussion concerning such issues may therefore, be needed and space may be needed to be made adjacent the adopted highway to accommodate the scale of tree required.

In addition, whilst the exact form, design and external appearance of plant/buildings is not known, the scale indicated is such that landscape planting would be to compliment design as distinct to masking buildings. The applicants should therefore, consider the use of colour and architectural form in the design of plant/buildings. A sophisticated approach to use of colour grading to minimise the impact on the skyline of very large plant/buildings is available and pays dividends both in design terms and visual impact.

5.1 PPS9 and the Potential for Biodiversity and Landscape Enhancement

Clearly, this project is at an early stage and the details of design have yet to be produced. However, the Masterplan submitted with the informal consultation gives the impression of a large area being converted from relatively diverse habitat to a site devoid of wildlife or landscaping. It is important to ensure that this does not happen.

PPS9 states that, "Development proposals provide many opportunities for building-in beneficial biodiversity or geological features as part of good design. When considering proposals, local planning authorities should maximise such opportunities in and around developments, using planning obligations where appropriate."

The Defra document "Guidance for Public Authorities on Implementing the Biodiversity Duty" gives further guidance on the impacts and potential benefits for biodiversity from development, the importance of biodiversity enhancement and green networks in good design and the importance of planning obligations in securing biodiversity enhancement. It outlines the benefits to businesses and society of such an approach.

This area has been identified as an area of biodiversity opportunity by the Yorkshire and Humber Regional Biodiversity Forum. Accordingly, the applicant should seek to provide features such as native trees and hedges, green or brown roofs, nesting and roosting habitats, wetlands and habitat networks as part of good design that will also enhance the landscape.

For impacts of landscape proposals upon heritage assets – see 6 below.

6. Historic Assets and Historic Landscape Characterisation.

6.1 Comments made on informal consultation. See note below re: development of strategy in conjunction with ES.

The following comments under this heading relate to the historic environment, specifically the heritage assets, terrestrial and marine, and the historic landscape character.

In the informal consultation Able UK undertook to further investigate the impacts of their proposed development on the historic environment (9.4 of the informal consultation statement). This is welcomed

As noted in the informal consultation document, there are no statutory designations within the proposed development site, there are however thirty five non-designated heritage assets recorded on the North Lincolnshire Historic Environment Record within this area.

These include a wide range of heritage assets from ancient occupation sites dating from the Iron Age and Roman periods, find scatters of material ranging in date from the Mesolithic to the Roman period, historically important hedgerows, and World

War 1 military defence sites. Other recorded sites include features of potential archaeological origin identified during previous geophysical surveys that have not yet been confirmed through intrusive investigation.

The proposed development site, including the intertidal and marine areas, has the potential to contain other, as yet unrecognised, heritage assets, as well as palaeoenvironmental deposits that may contain significant evidence of past environments, climate change events and sea level rises.

Environmental impact assessment on the significance of heritage assets and the historic environment should thus include desk study and field investigations to be undertaken in accordance with the procedures set out in the draft NPS for Ports (paras 2.24.1-20), PPS5 Planning for The Historic Environment and the accompanying Practice Guide, and local plan policies HE8 & 9.

The results of these assessments will enable the IPC to make informed decisions regarding development affecting any significant heritage assets, and any mitigation and/or recording that may be appropriate to conserve such features.

The northern half of the proposed application site has already been the subject of archaeological assessment for recent developments. The sustainability of mitigation measures taken to secure the in situ preservation of significant heritage assets in these areas will require consideration during the EIA process.

The construction of the quay and the proposed dredging operations will require assessment of the impact on the heritage resource of the intertidal and marine environments; this may involve assessment of specialist data and techniques undertaken for other aspects of the marine EIA, such as bathymetry surveys. English Heritage has responsibility for the marine historic environment and their Regional Science Advisor should be consulted on this specific aspect of the assessment (andy.hammon@english-heritage.org.uk).

There are three statutory designated heritage assets, the Grade II Killingholme Lighthouses, located along the Humber flood defence less than 1km from the southeast boundary of the site. The ES will need to include an assessment of the visual impact of the development on these built structures, as well as on other more distant designated heritage assets, including Thornton Abbey and the Grade 1 listed church of St Peter at East Halton. This visual impact assessment of the heritage assets should be distinct from the general Landscape and Visual impact assessment, but following similar methodology.

Impact on the historic landscape character will also need to be assessed, and the emergent historic landscape characterisation project for Lincolnshire should be used. Wherever possible extant historic landscape features such as any historically significant hedgerows, relict earthworks and ridge and furrow, as well as the historic pattern of the landscape and field boundaries should be retained and enhanced.

Any preliminary proposals for landscaping the new development, including that within the LC20 area of the site, will need to be included in the heritage impact assessment. The development of a detailed landscape strategy and conservation management plans for the site should take full account of the impact on heritage assets and should be developed in conjunction with the heritage mitigation strategy. This should include seeking opportunities to incorporate historic landscape features, and to conserve, enhance and interpret heritage assets for public benefit.

It will also be important to consider the impact on the heritage resource of any compensatory land that may be required to replace that which is being lost from the Humber Estuary SAC/SPA.

All heritage asset and historic landscape assessments should be undertaken by suitably qualified organisations and conform to IfA Standards and Guidance, following the relevant recognised industry guidelines.

Note: Officers of the North Lincolnshire Historic Environment Register are active in working with agents appointed by the applicants to develop a historic asset strategy to inform the ES for this proposal.

6.2 Historic Landscape

The council has commissioned a Historic Landscape Characterisation (HLC) for its area. This information is likely to be available during the course of the proposal and should be read in conjunction with existing landscape assessments.

Traditionally, archaeologists have looked at individual archaeological monuments without giving much attention to the areas between them. The setting of individual historic assets should be assessed in accordance with policy set out in Planning Policy Statement 5 – Planning for the Historic Environment (and the accompanying guide): -

<http://www.communities.gov.uk/publications/planningandbuilding/pps5>

The wider landscape forming the setting of these assets however, remains one of the least understood elements of the historic environment. To rectify this, North Lincolnshire is working in a partnership which will deliver mapping for the entire historic landscape of the borough. HLC is promoted by English Heritage and, alongside the English survey, similar projects are also running in Scotland and Wales.

<http://www.english-heritage.org.uk/professional/research/landscapes-and-areas/characterisation>

Further information concerning the HLC for North Lincolnshire can be obtained through the Council's Environment Team. Contact – Ian Goldthorpe 01724 297483.

Appendix 1.

Environmental Impact Assessment and Consideration of Alternatives

Environmental Impact Assessment is not intended to be used as a tool to justify a pre-determined proposal. Rather, it is good practice for the ES to include a genuine assessment of the alternatives considered before arriving at the best environmental option (Circular 02/99):

"83. Where alternative approaches to development have been considered, paragraph 2 of Part II of Schedule 4 now requires the developer to include in the ES an outline of the main ones, and the main reasons for his choice. Although the Directive and the Regulations do not expressly require the developer to study alternatives, the nature of certain developments and their location may make the consideration of alternative sites a material consideration (see, for example, paragraph 3.15 of PPG 23). In such cases, the ES must record this consideration of alternative sites. More generally, consideration of alternatives (including alternative sites, choice of process, and the phasing of construction) is widely regarded as good practice, and resulting in a more robust application for planning permission. Ideally, EIA should start at the stage of site and process selection, so that the environmental merits of practicable alternatives can be properly considered. Where this is undertaken, the main alternatives considered must be outlined in the ES."

See also "Environmental Impact Assessment: A guide to good practice and procedures: A consultation paper (2006)":

"Alternatives

139. The number and type of alternatives will depend on the individual project. These are likely to have been considered during project preparation (see Section 1). Schedule 4 to the Regulations requires an outline of the main alternatives studied by the applicant to be included in the ES. If no alternatives have been considered then the ES should explain why. In the case of larger developments, alternatives may have been the subject of consultation with the public or relevant organisations, and this should be recorded in the ES. Whatever options have been evaluated, the criteria for assessment should be clearly explained."

Appendix 2.

Detailed Guidance on Requirements for Ecological Information.

i) Habitat survey

Extended Phase 1 survey with target notes will certainly be useful. However, given the generally arable nature of the land, a standard Phase 1 approach may result in much of the area not being coloured-in or simply being coded with an "A", giving little useful information. It would be useful to describe the arable land in more detail, in order to help interpret the distribution of SPA-listed bird species using the land for roosting, feeding and loafing. Features such as surface water, fallow, ploughed land and crop types/stage of growth may need to be described.

In the intertidal and subtidal areas, habitat assessment will need to be very detailed- both for the area affected by the proposal and adjacent to any proposed site for compensatory habitat. This will include classification and mapping of any mudflat, sandflat and saltmarsh habitats.

ii) Badgers

It may be possible to rely on bait marking studies and other survey data previously submitted with Able UK's applications. Humber INCA has also recently carried out survey work in this area.

However, where significant areas have not been covered by previous surveys, or where the Extended Phase 1 survey indicates signs of badger activity, additional surveys may need to be carried out. Surveys should be carried out by a competent person at the appropriate time of year. They should include searches for field signs such as setts (main setts, annexe setts, subsidiary setts and outliers), foraging trails, snuffle holes, latrines, guard hairs, footprints etc. Where badger field signs are discovered, it may be necessary for bait marking studies to be carried out, to reveal the foraging behaviour of each social group. This will enable any potential impacts on badgers to be assessed in accordance with paras 123-124 of Circular 06/05.

iii) Bats-

Surveys should be carried out by a licensed and experienced bat worker at the appropriate time of year. This should include a search for roosts in trees and buildings and desktop data search for existing records within the vicinity. There should be assessment of bat potential in mature trees. Bat foraging areas and flight lines should be assessed using bat detectors in suitable conditions on a number of dusk/dawn visits in accordance with Mitchell-Jones, A.J. (2004) Bat Mitigation Guidelines.

iv) Reptiles-

Surveys should be carried out by a competent person at the appropriate time of year in accordance with Gent, T. and Gibson, S. (2003) Herpetofauna Workers' Manual (JNCC). The area of search should be described and justified in the ES. Similarly, if reptiles are scoped out, this should also be justified.

v) Amphibians -

Surveys should be carried out by a competent person at the appropriate time of year in accordance with Gent, T. and Gibson, S. (2003) Herpetofauna Workers' Manual (JNCC).

For great crested newts (GCN), surveys should be carried out by a licensed and

experienced surveyor using standard methods at the appropriate time of year, in accordance with English Nature (2001) Great Crested Newt Mitigation Guidelines. The area of search should be described and justified in the ES. GCNs are known to be present around the boundary of the Local Wildlife Site known as Station Road Field.

vi) Breeding birds-

Surveys should be carried out by a competent person at the appropriate time of year in accordance with the Common Birds Census Methods, using appropriate methods and fieldcraft to avoid disturbance to birds. In terms of territory mapping, attention should focus on Schedule 1, BAP and red/amber listed species of conservation concern. A number of evening/crepuscular visits will be necessary to assess to use of the area by barn owls and other species for breeding and foraging.

Surveys have recently been carried out through Humber INCA and results are available from the Humber Environmental Data Centre. However, surveys may need to be updated as a consequence of Able UK's existing developments in the area.

vii) Wintering/passage birds-

Surveys should be carried out by a competent person between July and March (inclusive) using appropriate methods and fieldcraft to avoid disturbance to birds. Attention should focus on species listed in the Humber Estuary SPA/Ramsar citations (and relevant assemblages), Schedule 1, BAP and red/amber listed species of conservation concern. Use of the area for roosting, loafing and feeding should be described, as well as bird movements between sites. One count per week should take place across the whole site within two hours either side of the high tide. A number of evening/crepuscular visits will also be required. Natural England may recommend visits at other states of the tide. Areas of the site may be excluded from the survey by agreement if the habitat is unsuitable. The ES should describe details of any weather conditions, wider bird movements or disturbance which may be relevant in interpreting bird numbers. If counts are regularly affected by adverse weather conditions or disturbance to the birds, then repeat/replacement counts may be required. In such a case, it would be worth seeking our advice at the earliest possible opportunity.

Surveys have recently been carried out through Humber INCA and results are available from the Humber Environmental Data Centre. However, surveys may need to be updated as a consequence of Able UK's existing developments in the area.

viii) Water voles-

Surveys should be carried out by a competent person at the appropriate time of year in accordance with Strachan, R. (1998) Water Vole Conservation Handbook. Surveys should cover all wet ditches and water bodies. If any ditches or water bodies are excluded from the search, the criteria used for this selection should be justified in the ES.

Surveys have recently been carried out through Humber INCA and results are available from the Humber Environmental Data Centre.

ix) Vascular plants-

Any notable records of species or communities should be highlighted in the Phase 1 survey. Lincolnshire Local Wildlife Site survey methods should be used to assess any sites with plant communities indicative of UK BAP priority habitats.

x) Invertebrates-

Phase 1 survey may identify the need to survey for various invertebrate taxa (notably, but not exclusively, aquatic invertebrates and invertebrates of bare ground and previously developed land). Large elm trees should be checked for white letter hairstreak butterflies in this area. Such surveys should be carried out by a competent person at the appropriate time of year. Taxa surveyed, methods used and the area of search should be described and justified in the ES.

The intertidal and subtidal habitats affected by the proposal should be surveyed for benthic invertebrates in accordance with methods to be agreed with Natural England. Previous studies around Humber Sea Terminal, Immingham Outer Harbour and managed realignment sites may be instructive in terms of selecting appropriate methods and sampling regimes. Comparable methods should be employed to sample intertidal benthic invertebrates adjacent to any proposed site for compensatory habitat.

xi) Hedgerows- should be assessed to determine whether they would be classed as "Important" under the Hedgerow Regulations 1997, for either ecological or historic reasons. The relevant Enclosure Award would be the Killingholme Enclosure Award 1776-1799.

xii) Any protected or BAP species or habitats not listed above should be addressed in the ES if they are revealed through surveys or if there is a reasonable likelihood of them being affected by the proposal.

Appendix 3.

Detailed Guidance on Requirements for Physical and Geomorphological Information.

i) Estuarine information

In order for Competent Authorities to make informed judgements under the Habitats Regulations, it will be necessary for the applicant to provide information on the likely effects of the proposal on estuarine processes and geomorphology. They will also need to describe and assess the characteristics of the intertidal and subtidal habitat in the area affected by the proposal and adjacent to any proposed site for compensatory habitat. Previous studies around Humber Sea Terminal, Immingham Outer Harbour and managed realignment sites may be instructive in terms of selecting appropriate methods and sampling regimes. Information likely to be required includes flow speed, flow direction, sediment load in the water column, topography, sediment depth and grain size, organic content of sediment, tidal prism, erosion and deposition patterns etc.

ii) Habitat creation-

Where habitat creation is proposed as mitigation, compensation or planning gain, the underlying survey information should be adequate for regulatory authorities to assess whether the proposals are feasible. In addition to information on species and habitats, it will also be necessary to measure physical conditions including (but not exclusively) soil conditions and hydrology. Where applicable, the applicant should follow the standards set out in Natural England's Technical Advice Notes.

From: Sarah Nicholson/NE/NorthLincs
To: William J Hill/HP/NorthLincs@NorthLincs

Date: Monday, October 11, 2010 02:24PM
Subject: Able Marine Energy Park

Hi Bill

I have had a quick look through the Environmental Scoping Report. This indicates that the following areas of concern will be addressed:

- contaminated land
- light pollution
- air quality and dust
- noise

The only remaining potential concern that has not been specifically mentioned in the report is odour. However, I understand that the AMEP proposal no longer includes plans for a biomass plant. Given the proposed use as shown in Able UK's presentation last week, it is likely that any potential odour issues could be controlled through appropriate extraction and abatement systems on the process buildings (e.g. solvent odours relating to coating processes). Therefore I am satisfied that it is not necessary to address odour at this stage.

I have put the Environmental Scoping Report back on your desk.

Thanks

Sarah

Dr Sarah Nicholson
Environmental Protection Officer
North Lincolnshire Council
P O Box 42
Church Square House
Scunthorpe
North Lincolnshire
DN15 6XQ

tel: 01724 297318

fax: 01724 297898

email: sarah.nicholson@northlincs.gov.uk

This e-mail expresses the opinion of the author and is not necessarily the view of the Council. Please be aware that anything included in an e-mail may have to be disclosed under the Freedom of Information Act and cannot be regarded as confidential. This communication is intended for the addressee(s) only. Please notify the sender if received in error. All Email is monitored and recorded.

Please think before you print- North Lincolnshire Council greening the workplace.

From: Alison Williams/LE/NorthLincs
To: William J Hill/HP/NorthLincs@NorthLincs
cc: Ian Goldthorpe/PL/NorthLincs@NorthLincs

Date: Tuesday, October 12, 2010 12:25PM
Subject: Scoping Opinion IPC consultation - Able MEP

Bill

Please find attached additional comments as discussed, sorry these are so late, hopefully you'll still be able to do something with them for your deadline?

Thanks,
Alison

Alison Williams
Historic Environment Record
Environment Team
North Lincolnshire Council
55/57 Oswald Road
Scunthorpe
North Lincolnshire
DN15 7PE

Temporary Mobile contact no: 07717 588056

This e-mail expresses the opinion of the author and is not necessarily the view of the Council. Please be aware that anything included in an e-mail may have to be disclosed under the Freedom of Information Act and cannot be regarded as confidential. This communication is intended for the addressee(s) only. Please notify the sender if received in error. All Email is monitored and recorded.

Please think before you print- North Lincolnshire Council greening the workplace.

Attachments:

DE10.27 scoping report response 12_10_10.doc

PLANNING AND REGENERATION
ENVIRONMENT TEAM

I N T E R

MEMO

O F F I C E



To: William Hill
From: Alison Williams
Our Ref DE10/27
Date: 12th October 2010

**Re Scoping Opinion – IPC (Environmental Impact Assessment)
Regulations 2009 SI 2263 (“the EIA Regulations”)
Proposed Bio Mass Power Station and Port Facility. North and South
Killingholme.**

Additional Comments re Heritage Assets and Archaeology

In addition to the comments made on the informal consultation re the Heritage assets reproduced in Ian Goldthorpe’s formal response from the Environment Team dated 8 October (section 6), I offer the following comments relating to the Scoping Report sections on Marine and Terrestrial Archaeology and Heritage:

In contrast to the other environmental topics that deal with the marine and terrestrial impacts of the proposed development as a whole, the Scoping Report has separate sections for the cultural heritage dealing with the marine and terrestrial archaeology. This is considered unsatisfactory for the EIA process and has led to potentially confusing situation in the Scoping Report (see below).

The marine and terrestrial historic environments are not mutually exclusive and it would be preferable if the EIA process and ES dealt with them as a seamless continuum of the present dry land, the intertidal zone and beyond the low water mark into the marine environment where former dry-land archaeology may be present within the seabed. There is no specific mention in either section of the intertidal zone between the high and low water marks; this must be addressed during the EIA process.

The Scoping Report appears to be based on the baseline study produced for the marine elements of the development, and thus the development within the terrestrial and intertidal zones are not sufficiently addressed in the baseline conditions, potential impacts, and proposed assessment methodology sections of the report.

Specific comments:

5.6.6 The spatial scope of the assessment suggests that 'any potential effects on archaeology would tend to be confined to those areas physically disturbed by the works'. This does not however take account of the indirect impacts that the marine development may cause on heritage assets at some distance beyond the site, for example changes in currents affecting remains on or within the seabed, dredging works pre-construction and during operation, or erosion and accretion along the coast line and affecting heritage assets within the inter-tidal zone.

5.6.18 Some aspects of the decommissioning phase of the development have the potential to impact any buried heritage assets that may have been preserved in situ pre-construction and through the life of the development.

6.11 Marine archaeology and Heritage

6.11.2-7 The baseline conditions omit reference to the evidence of and potential for Mesolithic dry land surfaces and man-made remains to be present within and on the seabed (pre sea-level rises). The study of the coring logs undertaken for the marine development has identified the presence of potential land surfaces of this date. The assessment will need to address this potential, and the impacts of the development on this resource.

6.11.8 The potential impacts of the proposed marine development on the cultural heritage assets also needs to address the following additional impacts:

- dredging operations both pre-construction and during operation on any potential Mesolithic landsurfaces, palaeoenvironmental deposits and man-made remains, as well as on wreck sites and aircraft crash sites.
- change in currents on heritage sites within the marine environment
- erosion and accretion along the coastline and the intertidal zone within and beyond the development site.

6.11.10 Proposed Assessment Methodology – the principal objectives of the assessment should refer to all heritage assets rather than just archaeological sites; this will need to include palaeo-environmental deposits in the marine environment that may be associated with Mesolithic land surfaces and remains.

6.12 Terrestrial Archaeology and Heritage

A significant issue with this section of the Scoping Report is that it appears based on the baseline study undertaken specifically for the marine elements of the proposed development ie the quay site, and thus does not fully reflect the baseline conditions or the heritage potential of the terrestrial development site.

For example paragraph 6.12.3 states that no sites have been identified within the site area – true for the marine area of the proposed quay, but there are 35 recorded sites within the terrestrial development area, one of which is directly referred as being in the north of the development site area in the subsequent paragraph (6.12.5)! Similarly, paragraph 6.12.7 and 6.12.10 refer to potential

for Iron Age and Roman settlement across the estuarine alluvium zone and saltmarsh adjacent to the marine development, but not to the greater potential that is evident on the slighter higher glacial till deposits that are present across the main development area to the west. This emphasises the issues of separately assessing the terrestrial and marine environments of the proposed development.

6.12.7 The Iron Age settlement site within the existing vehicle storage area in the northern part of the proposed development site was not disturbed during construction. A mitigation strategy was agreed to preserve this site in situ and the strategy was conditional on the planning permission (PA/2006/0039). The area of archaeological significance can be clearly seen on the aerial photographs of the site as the undeveloped square of green land amidst the surrounding tarmac (see Fig 3.3). The assessment will need to include further account of this site and consider the impact of the proposed development on the sustainability of the agreed mitigation strategy.

6.12.11 The report notes the potential for the havens and creeks fringing the Humber to have been used as landing areas and small ports during the Anglo-Saxon and Early Medieval periods. This potential is relevant to all periods; Iron Age, Roman and Medieval finds have all been recorded from East Halton and North Killingholme Skitters, and from the intertidal zone.

6.12.15-17 Potential Impacts – again these refer only to the impact of the marine development within the estuarine alluvium zone, and not to the main terrestrial development area where the potential for shallow buried archaeological remains is much greater. For example, there is no reference to large-scale cut and fill operations that will undoubtedly be required to grade the land, and which will directly impact buried remains. The EIA process will need to address all possible impacts of the development, including those during construction, operation and de-commissioning phases (1.1.3-4, 3.3 cf Table 6.4), as well as any landscaping and ecological mitigation measures.

6.12.18- 19 Proposed Assessment Methodology – the assessment of the terrestrial archaeology will also need to include other field evaluation techniques including fieldwalking to identify surface find scatters and to complement the geophysical prospection in order to target trial trenching. A coring survey to identify and assess the potential of palaeo-environmental deposits within the site will also be necessary. Ian Goldthorpe has already noted that the applicant and their archaeological consultant are working with the Historic Environment Record on the EIA process, and a start on these surveys is in hand.

I've attached an appendix detailing guidance for the requirements of historic environment information within the ES.

I trust this information is of use; perhaps it could be slotted into section 6 of the Environment Team's response between 6.1 & 6.2 with an additional appendix.

Please note that English Heritage have the statutory responsibility for the marine historic environment.

Detailed Guidance on Requirements for Historic Environment Information.

The planning authority will require assessment of the impact of development in accordance with national historic environment planning guidance (PPS5 & the accompanying DCLG Practice Guide), Draft National Policy Statement for Ports, and Local Plan policies HE8 & 9.

The scope of the historic environment and cultural heritage interests included in the EIA & ES should be as follows:

- Scheduled Ancient Monuments within at least 5km of the development site; distance to be dependent on actual viewsheds (within ZTV for the development site)
- Non-designated archaeological heritage assets within 1km of the development site (marine, inter-tidal and terrestrial)
- Palaeo-environmental deposits (marine and terrestrial)
- Listed buildings/structures and buildings/structures of historic importance
- Any other heritage designations including Conservation Areas
- Historic landscape features and character
- Historically important hedgerows and boundaries

The scope of the EIA must include the following:

Desk Based Assessment

- Collation of known archaeological and palaeoenvironmental data, up to a distance of 1km beyond the development boundary, to include the marine, coastal, intertidal and terrestrial zones.
- Collation and assessment of marine studies with potential to inform on historic environment potential and impacts
- Aerial photographic assessment with rectified cropmark plots within the development site in accordance with the guidelines set out in the Institute of Field Archaeologists' Technical Paper '*Uses of aerial photography in archaeological evaluations*' (Palmer & Cox 1993).
- Field inspection to identify upstanding earthwork remains, historic hedgerows and assess other relevant terrestrial features, as well as inspection of the foreshore and intertidal zone. Hedgerows should be assessed in accordance with the Criteria for Determining Important Hedgerows, Hedgerows Regulations 1997.
- The desk based assessment must be undertaken in accordance with *Standard & Guidance for Archaeological Desk-based Assessments*, (IFA) Institute of Field Archaeologists, rev 2001.

Historic Landscape Character Assessment

- An assessment of historic landscape character of the development site in the context of the surrounding region, to be undertaken in accordance with current English Heritage methodology (see www.helm.org.uk), and '*Using Historic Landscape Characterisation*' (Clark, Darlington & Fairclough, 2004).

- Relevant data should be obtained from the emerging Historic Landscape Characterisation Project for Lincolnshire (contact Alistair MacIntosh, Lincolnshire County Council HER Alastair.Macintosh@lincolnshire.gov.uk)

Field Survey and Evaluation

All archaeological and heritage surveys should be undertaken in accordance with the relevant IFA (Institute of Field Archaeologists) Standards and Guidance documents and the relevant English Heritage guideline documents (www.helm.org.uk). In accordance with the IFA guidance document the methodology for the surveys, including the location and extent, should be agreed in advance with the North Lincolnshire HER.

Fieldwalking

- Systematic grid-based fieldwalking across the development area to identify and characterise recorded archaeological data, and to identify potential new archaeological sites. All finds will be treated in accordance with *Standard & Guidance for the collection, documentation, conservation and research of archaeological materials*, (IFA) Institute of Field Archaeologists, 2001. It should be noted that the absence of archaeological material will not necessarily indicate the absence of archaeological remains, rather that remains may lie too deeply buried to have been disturbed by ploughing activity, or that ceramic products which form the bulk of fieldwalking finds were not in use during certain periods of occupation and activity. The limitations of this technique should be acknowledged in the ES.

Topographic Survey

- Measured survey of all upstanding historic landscape features including ridge and furrow should be undertaken to assess the condition and state of preservation of earthworks. The survey methodology should accord with *'Recording archaeological sites and landscapes: a descriptive approach'*, Royal Commission on Historical Monuments of England, 1996.

Geophysical Survey

- Geophysical survey to test for the presence of buried archaeological features across those areas of archaeological potential identified by the results of desk based assessment and fieldwalking. Geophysical Survey should be undertaken in accordance the English Heritage guidelines *'Geophysical survey in archaeological field evaluation'* (2008) <http://www.helm.org.uk/server/show/nav.19702>. The limitations of geophysical survey where early landscapes and archaeological sites are buried beneath alluvium beyond the detection of this investigative technique should be acknowledged in the EIA.

Trial Trenching

- Where the above surveys identify the likely presence of significant archaeological features, targeted trial trenching should be undertaken to confirm results. The trial trenching will allow the nature, quality of survival

and significance of any remains to be determined, in order to inform the impact of assessment and mitigation strategy (see below).

Palaeo-environmental Survey

- A coring survey and assessment of the palaeoenvironmental resource should be undertaken of the development area (marine and terrestrial elements) to assess the potential for the presence/absence of archaeological and palaeoenvironmental deposits, their depth, scale and likely state of preservation. The survey work should be undertaken in accordance with English Heritage guidelines in English Heritage 2002 *Environmental Archaeology A guide to the theory and practice of methods, from sampling and recovery to post-excavation*. <http://www.helm.org.uk/upload/pdf/Environmental-Archaeology.pdf>, and English Heritage 2007 *Geoarchaeology: Using Earth Sciences to Understand the Archaeological Record* <http://www.helm.org.uk/upload/pdf/Geoarchaeology-2007.pdf>

Impact Assessment

The ES should include a detailed assessment of the impact of the proposed development to include:

- An appropriate assessment of the significance of all heritage assets and the historic environment based on the results of the above surveys. The Secretary of State's criteria for scheduling ancient monuments should be used (Ancient Monuments and Archaeological Areas Act 1979).
- The impact of all aspects of the known or potential proposed development on the significance of the heritage assets and historic environment, including landscaping and other mitigation measures.
- The cumulative impact on the historic environment resource of the development area together with other development in the area should be assessed; in particular the North East Lindsey Inland Drainage Board scheme for the drainage of North Killingholme Marshes and Environment Agency schemes for flood defence improvements or managed realignments.

Mitigation Strategy

The ES must include a detailed mitigation strategy to include:

- Detailed mitigation proposals to off-set any adverse effects on significant heritage assets and the historic environment, including the historic landscape character.
- Where important features or remains are identified, these should be preserved. The preferred option will be the physical or in situ preservation (retaining the visual amenity and landscape contribution of the site, free from adverse development eg. by relocating development to avoid archaeological remains). The possibilities of reconciling the needs of preservation with those of the development should be fully explored, however, where in situ preservation proves impracticable, preservation by record is considered to be the second-best option, through detailed

excavation in advance of development, to include post-excavation analysis and publication of results.

- Proposals for the publication of the results of all survey work carried out in the development area, including evaluation and mitigation works.
- Proposals for the interpretation of heritage assets and the historic environment for the public benefit

Report Content

- The Environmental Statement must include the full reports of all assessment and survey work (as appendices where appropriate).

North Killingholme Parish Council
Clerk; Mrs J Uney, 18 Hallam Close, Barrow on Humber,
North Lincolnshire. DN19 7FD: Tel No 01469 533863.
Email: northkillingholmeipc@hotmail.co.uk

5 October 2010

Mike Welton
Planning Department
North Lincs Council
Pittwood House
Ashby Road
Scunthorpe

Dear Mr Welton

I have been asked to write on behalf of North Killingholme Parish Council regarding recent correspondence from the IPC regarding the proposed Biomass site from the applicant Able UK.

The council have asked the following concerns be noted :

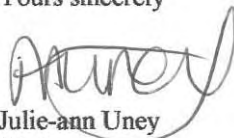
1. The bio mass plant – i) Emissions ii) Traffic iii) The requirements for more overhead cables. iv) The storage of fuel which may emit odour before use
2. The Bulk Terminal – Dust caused by i) Storage of bulk Products outdoors ii) Handling of Bulk products – This concern is to prevent us having the problems that Immingham suffers within 3 miles of the coal heaps on the docks. We have heard complaints of Golfers getting black legs when playing at Immingham Golf Course.

The council also have concerns over the poor road system from the A180 to the area concerned and do not feel the infrastructure currently in place can cope with increased HGV and traffic on the existing roads.

We are also very concerned about the air pollution, particularly the dust problem. It is not only Immingham that suffers with this as North and South Killingholme are affected too.

I trust these concerns will be taken into account when a decision is to be made but if you need any further information please do not hesitate to contact me.

Yours sincerely



Julie-ann Uney
Clerk

DEVELOPMENT CONTROL SECTION	
- 7 OCT 2010	
DATE RECEIVED	
Referred To	MW

Mr Mark Wilson
Infrastructure Planning Commission
Temple Quay House
Temple Quay
Bristol
BS1 6PN

IPG
04 OCT 2010
REF: _____

27th September 2010

Dear Mark

Ref: 100917_EN010030_252740

I am writing to confirm that SSE Pipelines Ltd do not have any comments to make on the information to be provided in the environmental statement (Regulation 8 (11)).

Yours faithfully



PP
Kevin Bennett
SSE Pipelines General Manager

Robert Brown House
5 Pipers Way
Thatcham
Berkshire
RG19 4AZ

Tel: 01623 637 119 (Planning Enquiries)

Email: planningconsultation@coal.gov.uk

Web: www.coal.gov.uk/services/planning

For the Attention of Mark Wilson
Infrastructure Planning Commission

[By Email: ipcscopingopinion@infrastructure.gsi.gov.uk]

1 October 2010

Dear Mr Wilson

EIA SCOPING OPINION:

Proposed Killingholme Port and Biomass Plant

Thank you for your consultation letter of 23 September 2010 seeking the views of The Coal Authority on the EIA Scoping Opinion for the above proposal.

Coal Authority Response

The proposed EIA development is located within the defined coalfield area.

In particular, the site of the proposed quay development is located within an area in which The Coal Authority has granted a Conditional Licence for Underground Coal Gasification (UCG) operations. This Conditional Licence has been granted to East Coast Energy Ltd, and a copy of the Licence detail is attached for information.

East Coast Energy Ltd would need to obtain all other relevant consents before being able to undertake UCG operations within this area. However, The Coal Authority considers that the potential for UCG operations to be undertaken within the area should be fully considered and addressed as part of the Environmental Statement for the proposed development. In particular, the Environmental Statement should identify and address the potential impacts that future UCG operations might have in relation to the proposed quay development, including the potential for subsidence, along with any mitigation measures that are necessary as a consequence.

Coal Mining Information

Further information on the issues above can be obtained from the Coal Authority's Licensing Team (01623 637 344 or www.coal.gov.uk/services/licensing/index.cfm).

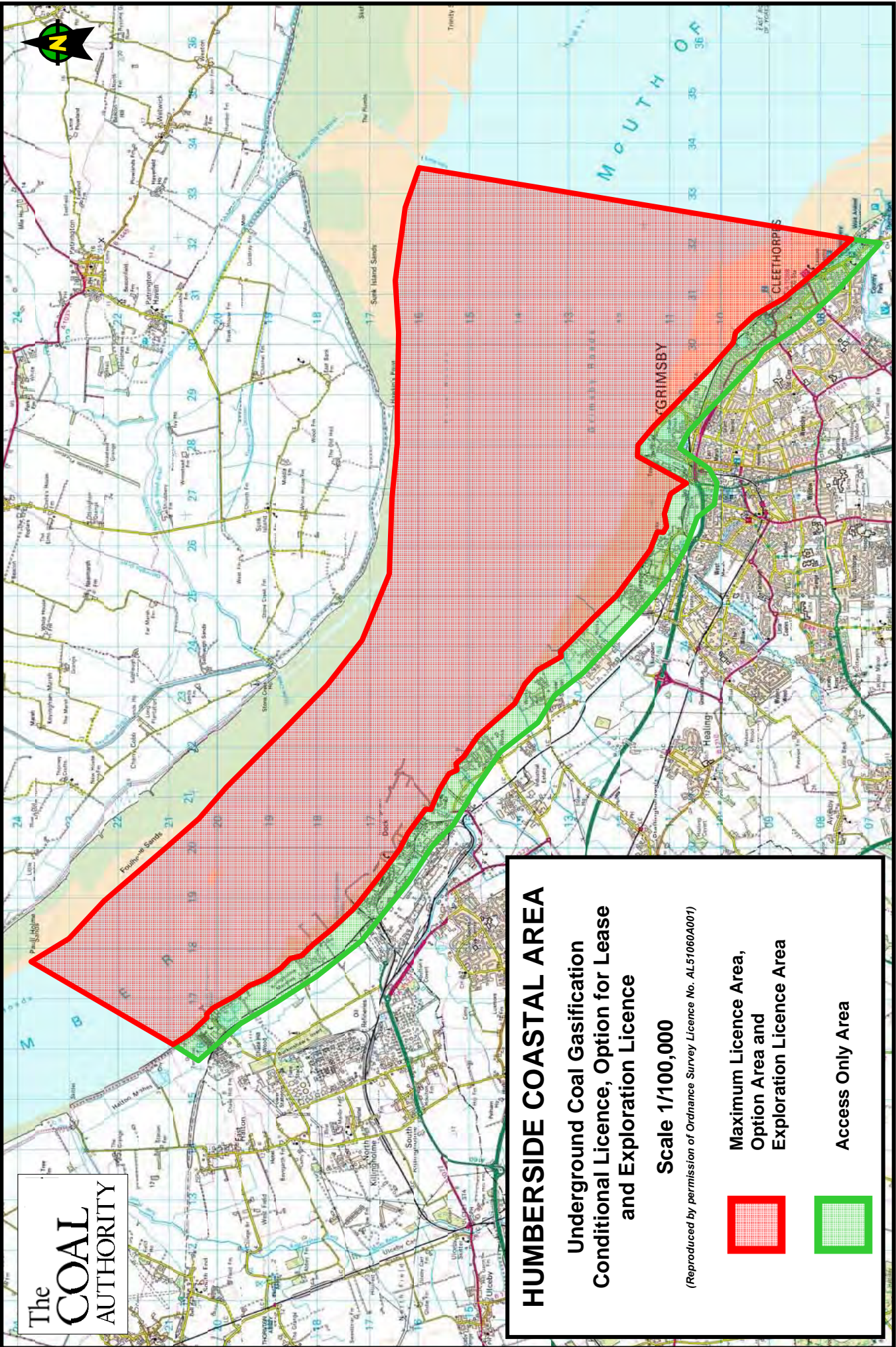
In accordance with our consultation requirements, we look forward to receiving the application documents and Environmental Statement for comment in due course.

I trust this is helpful, but please do not hesitate to contact me if you require any additional information or would like to discuss this matter further.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D Berry', written in a cursive style.

David Berry *B.Sc.(Hons), MA, MRTPI*
Planning Liaison Officer



HUMBERSIDE COASTAL AREA

Underground Coal Gasification
Conditional Licence, Option for Lease
and Exploration Licence

Scale 1/100,000

(Reproduced by permission of Ordnance Survey Licence No. AL51060A001)



Maximum Licence Area,
Option Area and
Exploration Licence Area



Access Only Area

**PART II CONDITIONAL UNDERGROUND COAL GASIFICATION LICENCE – GRANTED
HUMBERSIDE COASTAL AREA**

LICENCE NUMBER	CA11 / UCG / 0007 / S
LICENCE TYPE	Conditional Underground Coal Gasification Licence
LICENCE STATUS	Granted
DATE OF GRANT	24 th November 2009
DATE AUTHORISATION COMES INTO FORCE	The first date on which the Licence becomes unconditional, in whole or in part.
IDENTITY OF PERSON TO WHOM LICENCE IS GRANTED	EAST COAST ENERGY LIMITED
OTHER PERSONS ENTITLED TO MINE UNDER THE LICENCE	Any Coal-Mining Operations carried out under this Licence may be carried out through any officer, employee or contractor of the Licensee provided that the carrying out of those Coal Mining Operations remains under the control of the Licensee.
AREA TO WHICH AUTHORISATION RELATES	Details attached
DEPTH RESTRICTIONS ON AUTHORISED OPERATIONS	Details attached
OTHER RESTRICTIONS ON AUTHORISED OPERATIONS	Details attached
ANY AREA OF RESPONSIBILITY	Details attached
LICENCE PROVISIONS FOR EXPIRY OF AUTHORISATION	Details attached
LICENCE PROVISIONS FOR THE PURPOSES OF SECTION 58 OF THE 1994 ACT AND LICENCE CONDITIONS REQUIRING THE DISCLOSURE OF INFORMATION THAT MAY BE RELEVANT FOR THE PURPOSES OF SECTION 58 OF THE ACT	Without prejudice to Condition 14.3, all and any information from time to time provided by the Licensee to the Coal Authority pursuant to Conditions 5.2(a), 5.2(b), 5.2(e), 5.2(f), 5.2(g), 5.3, 8.1(a), 8.2, 9 or 12.4(c)(ii) may be disclosed by the Coal Authority for the purposes of replying to the coal-mining searches referred to in Condition 8.2 [Note: Copies of Conditions 14.3, 5.2(a), 5.2(b), 5.2(e), 5.2(f), 5.2(g), 5.3, 8.1(a), 8.2, 9 or 12.4(c)(ii) are available on request from the Coal Authority] All and any information of the description specified above that is disclosed by the Coal Authority for the purposes specified in that Condition shall be treated, for the purposes of section 58 of the Coal Industry Act 1994, as information whose accuracy the Licensee has undertaken to secure.
LICENCE PROVISIONS FOR DETERMINING WHEN AREA CEASES TO BE THE AREA OF RESPONSIBILITY OF THE LICENCE HOLDER	At any time after the Coal Authority has given notice pursuant to Condition 14.2 the Coal Authority may give notice to the Licensee extinguishing the whole of the Area of Responsibility or such part or parts of the Area of Responsibility as may be specified by the Coal Authority in the notice (or further notice(s)). Condition 14.2 provides that, where the Coal Authority has given a notice under Condition 14.1 requiring the Licensee to comply with a final enforcement order (or with a provisional enforcement order that has been confirmed) under Section 31 of the Coal Industry Act 1994, or requiring the remedy of certain breaches of obligations in relation to subsidence damage, and (in either case) the period specified in the notice for this to be done has expired without it having been done, the Coal Authority may give a further notice that the period has expired and this notice shall terminate the permission to carry out coal-mining operations contained in the Authorisation if this permission is still in force.
MODIFICATIONS TO LICENCE PARTICULARS	-
DATE OF REVOCATION OF LICENCE OR OF AUTHORISATION TO MINE	-
ENFORCEMENT ORDER IN EXISTENCE (DETAILS ATTACHED IF APPLICABLE)	-
FORM OF SUBSIDENCE SECURITY	To be determined at de-conditionalisation
IDENTITY OF PERSON PROVIDING SECURITY	To be determined at de-conditionalisation
IDENTITY OF TRUSTEE	-
ADDRESS OF TRUSTEE	-

HUMBERSIDE COASTAL AREA

Reference : CA11 / UCG / 0007 / S

Coal Industry Act 1994 Part II : Licence Register Details

THE AUTHORISATION

THE COAL AUTHORITY (“the Authority”), subject to the conditions and other provisions of this Licence **HEREBY AUTHORISES** the Licensee (being the person or persons defined as “Licensee” in Condition 1) for the period of **twenty five (25) years**, beginning on the first date on which this Licence becomes unconditional, in whole or in part, in satisfaction of the requirements specified in Condition 22 of this Licence, to carry out Coal-Mining Operations (as defined in Condition 1) and Ancillary Operations (as defined in Condition 1) within the Licensed Area (as defined in Condition 1) in compliance with the restrictions and conditions referred to in Schedule 3.

4. AREA OF RESPONSIBILITY

4.1 Subject as mentioned in Conditions 4.2 and 17.1 and to any extinguishment under Conditions 4.3 or 15.3, for the purpose of Part III of the 1994 Act the Area of Responsibility shall be :-

4.1.1 the area delineated by the centre of the blue line(s) shown on Plan A and any further area which the Licensee may from time to time by notice to the Authority request and to which the Authority has agreed, subject to that further area not being an area which is within the area of responsibility for the time being designated under any other licence; and

4.1.2 such area as the Authority may from time to time stipulate to the Licensee and having a maximum surface boundary :-

(i) determined by :-

(A) taking a series of points :-

(1) on the perimeter of any Coal-Mining Operations (being Coal-Mining Operations or Ancillary Operations which would cause or be likely to cause ground movement at the surface) shown on any plan submitted to the Authority from time to time under Condition 5.2(f) and which the Licensee proposes working during the period of two years to which that plan relates; and

(2) at each place at which there is any material change of direction or depth of the relevant seam;

(B) projecting from each of those points a line :-

(1) outwards and upwards from the relevant seam at 35° from a line perpendicular to that seam; and

(2) so as to intersect the surface of the land and/or the seabed above;

(C) joining up consecutively the points at which each line referred to in sub-paragraph (b)(i)(B) of this Condition intersects the surface there mentioned; and

(ii) adjusted having regard to either or both of the following factors and to no others :-

(A) the effect on potential ground movement of any geological or other condition (whether naturally occurring or not) in, or likely to be found in, the locality; and

(B) any Subsidence Damage which has been caused or is likely to be caused as a result of any Coal-Mining Operations or Ancillary Operations which have been carried out or are planned to be carried out within the Licensed Area;

but not being an area which is within the area of responsibility for the time being designated under any other licence.

- 4.2 If any part of the Area of Responsibility and any part of an area of responsibility under any other licence are at any time contiguous, the Authority may by notice to the Licensee and the licensee holding that other licence direct that the Area of Responsibility and the area of responsibility under that other licence shall be varied in accordance with a request to the Authority (to which the Authority has agreed), made jointly by the Licensee and that other licensee, to adjust the boundaries of the Area of Responsibility and that other area of responsibility.
- 4.3 The Authority may give notice to the Licensee extinguishing the whole of the Area of Responsibility or such part or parts of the Area of Responsibility as may be specified by the Authority in the notice (or further notice(s)) :-
- a) at any time after the Authority has given notice pursuant to Condition 14.2; or
 - b) at any time after the appointment of an Insolvency Officeholder acting in relation to the Licensee; or
 - c) immediately before exercising the power to revoke the Licence pursuant to Condition 15.1.
- 4.4 Immediately following any extinguishment under Condition 4.3 of the whole or any part of the Area of Responsibility, and if demanded by the Authority, there shall become due as a debt payable by the Licensee to the Authority, within thirty Working Days of a demand given by the Authority to the Licensee, such sum as the Authority determines is equal to the total anticipated cost of any claims (including the likely cost of dealing with such claims) which have then been made or which are then likely to be made in relation to any Subsidence Damage occurring or which may then be likely to occur within the Area of Responsibility or the part of it extinguished (as the case may require) (but only to the extent that those claims have not then been satisfied or otherwise disposed of).
- 4.5 Any extinguishment under Condition 4.3 of the whole or part of the Area of Responsibility shall be without prejudice to any other power, remedy or right of the Authority against the Licensee or any other person.
- 4.6 In the event of any variation of the Area of Responsibility such variation shall be recorded by the Authority.
-

14. LICENSEE'S DEFAULT AND TERMINATION OF COAL-MINING RIGHTS

- 14.1 Without prejudice to any other power, remedy or right of the Authority :-
- (a) if the Licensee fails to comply with a final enforcement order (within the meaning of Section 31 of the 1994 Act) or with a provisional enforcement order (within the meaning of that Section) which has been confirmed under that Section; or
 - (b) if the Licensee is guilty of persistent or substantial breaches of any of the Conditions of this Licence or any other licence issued by the Authority to the Licensee or any other Licensee's Group Company relating to any of the Authority's Property or any other document or agreement between the parties which is supplemental hereto or is entered into or pursuant to or in accordance with the Conditions hereof or if the Licensee fails to observe any duty imposed by, or any duty arising under, the 1991 Act or, in relation to Subsidence Damage, the 1994 Act or any obligations imposed by the owner of the seabed; or
 - (c) if the Licensee fails to comply with the Working Obligations as defined in Schedule 4

then the Authority may give notice to the Licensee and any Approved Chargee specifying the failure to comply or breach in question and requiring it to be remedied within such period as the Authority may reasonably require (being not less than ten Working Days).

Provided that no notice shall be given by the Authority pursuant to this Condition on the grounds mentioned in paragraph (a) above before the expiration of the period within which an application under Section 33 of the 1994 Act can be made questioning the validity of the final or provisional enforcement order or before proceedings relating to any such application are finally determined. Provided further that where the Authority is satisfied that any failure to comply or breach specified in a notice given by the Authority pursuant to this Condition has been remedied, the Authority shall give the Licensee and any Approved Chargee notice to that effect.

- 14.2 Where the Authority has given a notice pursuant to Condition 14.1 and any failure to comply or breach specified in such notice continues after the expiration of the period specified in the notice for remedying any such failure to comply or breach, the Authority may, at any time after the expiration of such period, give notice to the Licensee and any Approved Chargee to that effect, and where prior to such notice the Authorisation granted by this Licence is still in force, a notice given pursuant to this Condition shall terminate forthwith such Authorisation and the notice shall contain a statement to that effect.
- 14.3 Upon the termination of the Authorisation granted by this Licence under Condition 14.2 or Condition 15.1 or by reason of the expiration of the period specified in the Authorisation, the Licensee shall forthwith permanently discontinue all Coal-Mining and Ancillary Operations within the Licensed Area and shall not subsequently recommence them, provided that such requirement to discontinue any Coal-Mining and Ancillary Operations does not extend to any which it may be necessary for the Licensee to carry out to effect an orderly and speedy discontinuation of any Coal-Mining and Ancillary Operations which may have been carried out within the Licensed Area.
- 14.4 Any termination of the Authorisation granted by this Licence under Condition 14.2 or Condition 15.1 or by reason of the expiration of the period specified in the Authorisation shall not relieve the Licensee from any obligation or liability imposed by or arising under this Licence.

15. REVOCATION

15.1 The Authority may revoke this Licence :-

- (a) in respect of the whole of the Licensed Area :-
- (i) by notice to the Licensee and any Approved Chargee given at any time after the Authority has given notice pursuant to Condition 14.2;
 - (ii) if the Licensee for the time being is a body corporate or if the Licensee for the time being comprises persons any of which is a body corporate, and that Licensee or each of those bodies corporate is dissolved as provided by the 1985 Act, the 1986 Act or any other legislation having similar effect;
 - (iii) if the Licensee for the time being is an individual or if the Licensee for the time being comprises persons any of whom is an individual, and if that Licensee or each of those individuals is adjudged bankrupt and the interest of the Licensee in this Licence is not transferred in accordance with its conditions to some other person or persons within six months after the making of a bankruptcy order against that Licensee or against each of those persons (as the case may require);
 - (iv) if the Licensee or any one or more of the persons comprising the Licensee become subject to any insolvency proceedings including liquidation, bankruptcy or administration or an arrangement or composition with its creditors by which an Insolvency Officeholder is appointed to run the Licensee's affairs within the jurisdiction of England, Wales and Scotland;
 - (v) if the interest of the Licensee in this Licence is not transferred in accordance with its conditions to some other person or persons within 6 months after the appointment of an Insolvency Officeholder;
 - (vi) if the Licensee for the time being is a Scottish partnership and if that partnership is, or each of the partners are, sequestrated and the interest of the Licensee in this Licence is not transferred in accordance with its Conditions to some other person or persons within six months of the award of sequestration against that Licensee or against each of the partners (as the case may require);
 - (vii) if the Licensee or any one or more of the persons comprising the Licensee, becomes subject to any insolvency proceedings analogous or similar to liquidation, bankruptcy or administration or an arrangement or composition with its creditors by which a person analogous to an Insolvency Officeholder is appointed to run the Licensee's or that person's affairs under a jurisdiction other than England, Wales and Scotland; or

- (viii) by notice to the Licensee and any Approved Chargee given at any time after the Lease has terminated for any reason;
 - (b) at the request of the Licensee, in respect of the whole of the Licensed Area or such part of it as the Licensee may request and on such terms as the Authority may require.
 - 15.2 Where the Authority has grounds to revoke this Licence pursuant to Condition 15.1(a)(vii), the Authority may instead of revoking this Licence vary the provisions of this Licence as the Authority considers appropriate in the circumstances.
 - 15.3 The Authority shall, at the request of the Licensee, revoke this Licence and may extinguish the Area of Responsibility provided that all of the following conditions have been satisfied :-
 - (a) the Licensee's request for revocation of this Licence is made at any time after the expiration of a period of five years from the permanent cessation of all Coal-Mining Operations authorised by this Licence;
 - (b) the Licensee has delivered to the Authority copies in a written form (or in such form as the Authority may approve) of the Records referred to in Condition 8.4; and
 - (c) the Licensee has paid to the Authority a Commutation Payment in such sum as may be agreed between the Authority and the Licensee (both parties acting reasonably) calculated in accordance with the provisions of Condition 4.4 (*mutatis mutandis*) as at the anticipated date of revocation under this Condition.
 - 15.4 Any revocation of this Licence under Condition 15.1 or Condition 15.3 shall be without prejudice to any other power, remedy or right of either party.
-

22. CONDITIONALITY

- 22.1 If the provisions of this Licence (apart from those referred to in Condition 22.2) have not taken effect in relation to part (including the whole) of the Maximum Licensed Area by the date specified in Part 1 of Schedule 5, this Licence (including this Condition 22) shall thenceforth cease to have any further effect in respect of that part (save for any right or remedy of the Authority against the Licensee for any antecedent breach of the terms of this Licence).
- 22.2 Subject to Condition 22.1, the Authorisation granted by this (apart from Conditions 1, 2, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and this Condition 22) shall not take effect in relation to any part of the Maximum Licensed Area unless and until such time as the Licensee is or has become a party to the Interaction Agreement and all the conditions mentioned in Part 2 of Schedule 5 are fulfilled in relation to such part.

SCHEDULE 2

Part 1

Maximum Licensed Area

The area comprising Access Boreholes within the areas edged green and red on the Plan and the Specified Seams which are within the area edged red on the Plan.

Part 2

The Specified Seams

All coal seams, such part thereof as lie at a depth of five hundred (500) metres or greater beneath the surface area of 10,000 hectares or thereabouts as shown edged red on the Plan.

Part 3

Licensed Area

The part or parts (if any) of the Maximum Licensed Area in respect of which all the provisions of this Licence are fully in effect in accordance with Condition 22.

SCHEDULE 4

Working Obligations

1. The provision to the Authority of a feasibility study relating to the Coal-Mining Operations and Ancillary Operations proposed in the Licensed Area prior to the first date on which this Licence becomes unconditional, in whole or in part.
2. The obtention from the Department of Energy and Climate Change (or other successor body authorised to issue petroleum licences), prior to the date set out in Condition 3.1, of a petroleum licence to facilitate the lawful removal of any native methane or hydrocarbons in the strata in conjunction with the Coal-Mining Operations.

SCHEDULE 5

Part 1

Date by which Conditions Precedent are to be satisfied

1. The Conditions Precedent are to be satisfied no later than **three (3) years** from the date of this Licence.
2. Where there are reasonable grounds for extending the period described in paragraph 1 above and there has been no breach of any obligation of the Licensee pursuant to this Licence, the Authority shall not unreasonably refuse to extend this period for such time as is reasonable but any such extension may be made subject to such reasonable and proper further fees, consideration and conditions as the Authority reasonably thinks fit including provision of appropriate information so that the Authority can discharge its duties under Section 2(1)(b) and 2(2)(a) of the Coal Industry Act 1994.

Part 2

Conditions Precedent

1. The Licensee has served a valid notice pursuant to the Option Agreement in relation to the relevant part of the Maximum Licensed Area so as to entitle the Licensee, subject to the provisions of paragraph 3.2 of the Third Schedule to the Option Agreement, to be granted a lease of the Coal in the relevant part of the Maximum Licensed Area.
2. All the other Conditions Precedent are fulfilled in respect of the relevant part of the Maximum Licensed Area and the Licensee has supplied all information requested by the Authority for the purpose of the performance of its duties under sections 2(1)(b) and 2(2)(a) of the 1994 Act and the Authority has given notice to the Licensee that the Licence has become unconditional in relation to the relevant part of the Maximum Licensed Area, provided that where :-
 - (a) the Licensee is or has become a party to the Interaction Agreement; and
 - (b) all the other Conditions Precedent are fulfilled in respect of the relevant part of the Maximum Licensed Area; and
 - (c) the Licensee has given notice to the Authority referring to this Condition 2; and
 - (d) the Authority has not within one calendar month of receipt of the Licensee's notice notified the Licensee that it requires further information to be supplied for the purpose aforesaid or that, in the performance of its duties under sections 2(1)(b) and 2(2)(a) of the 1994 Act, it has decided that the Licence should not become unconditional in relation to such part of the Maximum Licensed Area;

this Condition 2 shall be construed as if the Authority had at the expiry of the said period of one calendar month served the Licensee with a notice that the Licence had become unconditional in relation to such part.

From: [Navigation Directorate](#)
To: [IPC Scoping Opinion;](#)
Subject: Ref 100917_EN010030_252740 Killingholme Port and Biomass Plant - Able UK Marine Energy Plant.
Date: 14 October 2010 16:49:17

FAO Mark Wilson

Your ref:- 100917_EN010030_252740
Our ref:- LL/OBS/AB/10

Dear Sir

Response by Trinity House to the request for comments on the EIA Scoping Opinion for the proposed development by Able UK Ltd., of a new quay and Biomass plant at North Killingholme, on the south bank of the River Humber.

I refer to the letter of 17 September from David Price under the above reference seeking comments on the Environmental Scoping Report dated September 2010 prepared by Environmental Resources Management (ERM) on behalf of Able UK Ltd for the proposed new quay, associated facilities and biomass electricity generating plant (collectively referred to as the Able Marine Energy Park) at Killingholme on the south bank of the River Humber.

Trinity House is the General Lighthouse Authority for England and Wales with responsibilities for advising the appropriate consenting / licensing authorities how developments in the marine environment should be required (as a condition of their consent) to be marked as a risk mitigation measure in the interests of safety of navigation and in accordance with the international system of marine navigational marking. Our particular interest is therefore concerned with the possible interaction between the proposed development and existing and proposed future uses of the River by all types of shipping throughout the life cycle of the development (construction, operation, decommissioning and eventual removal). As the marine elements of this proposal lie within the jurisdiction of ABP Humber as the responsible Port & Harbour Authority for the area, we would anticipate that the primary point for discussions regarding the environmental impact of this development would be with their Harbour Master. Any additional aids to navigation necessary or any changes to existing aids to navigation as a result of this development will need to be the subject of a consent application in due course by ABP to Trinity House in accordance with the requirements of section 199(2) of the Merchant Shipping Act 1995.

I can advise that Trinity House concurs with the need for the navigation studies identified in the Scoping Report. It is however considered that the navigational studies also need to address:-

- the potential impact of the proposed development on existing aids to navigation in the area by way of any physical obstruction that may be caused by the quay or by vessels alongside it (both during construction, operation, and any eventual decommissioning or removal operations).
- any potential impact on existing aids to navigation if viewed by the mariner through the rotating blades of the proposed wind turbines.
- the potential impact of lighting of the site on the exhibition of aids to navigation (both existing and any new aids that may be required as a result of the development) or on the night vision of mariners (in particular the need to ensure that any floodlighting or similar is arranged in such a way that it does not shine directly to seaward). In addition that any lights operated from the site cannot be confused with an aid to navigation.
- the need for navigational marking of the new quay, both by way of obstruction marking and any additional aids to navigation required to facilitate the use of the quay by vessels bearing in mind that the provision and maintenance thereafter by the developer / operator of any navigational marking determined as being necessary by ABP in consultation with Trinity House will need to be a condition of the Development Consent Order if eventually made.
- the need for provision to be made for the continuing navigational marking of the quay in the

event that it is abandoned or allowed to fall into decay.

I hope that these comments are useful at this stage.

Regards

John Cannon
Navigation Services Officer
Trinity House.

This communication, together with any files or attachments transmitted with it contains information which is confidential and may be subject to legal privilege and is intended solely for the use by the person(s) or entity to whom it is addressed. If you are not the intended recipient you must not copy, distribute, publish or take any action in reliance on it. If you have received this communication in error, please notify postmaster@thls.org and delete it from your computer systems.

Trinity House reserves the right to monitor all communications for lawful purposes. Receipt of this email does not imply consent to use or provide this email address, or any others contained therein, to any third party for any purposes. The contents of this email are protected under international copyright law.

To save energy and paper please print this email only if you really need to.

This email originated from: "The Corporation of Trinity House of Deptford Strond" which is incorporated by Royal Charter in England and Wales. The Royal Charter number is RC 000622. The Registered office is Trinity House, Tower Hill, London, EC3N 4DH. Website: <http://www.trinityhouse.co.uk>

This email has been scanned for all viruses on behalf of Trinity House by the MessageLabs AntiVirus service (<http://www.messagelabs.com>)

This email was received from the INTERNET and scanned by the Government Secure Intranet anti-virus service supplied by Cable&Wireless Worldwide in partnership with MessageLabs. (CCTM Certificate Number 2009/09/0052.) In case of problems, please call your organisation's IT Helpdesk.
Communications via the GSi may be automatically logged, monitored and/or recorded for legal purposes.

Correspondents should note that all communications to Department for Communities and Local Government may be automatically logged, monitored and/or recorded for lawful purposes.



The Region's
Development Agency

Infrastructure Planning Commission
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Yorkshire Forward
Victoria House
2 Victoria Place
Leeds LS11 5AE
Tel: 0113 3949600
Fax: 0113 2431088

28 September 2010

Your ref: 100917_EN010030_252740
Our ref: YF/09/143

Dear Sir/ Madam,

RE: SECTION 36 OF THE ELECTRICITY ACT 1989 APPLICATION TO CONSTRUCT AND OPERATE A 290MW BIOMASS FUELLED ELECTRICITY GENERATING STATION AT SOUTH KILLINGHOLME, IMMINGHAM, NORTH LINCOLNSHIRE

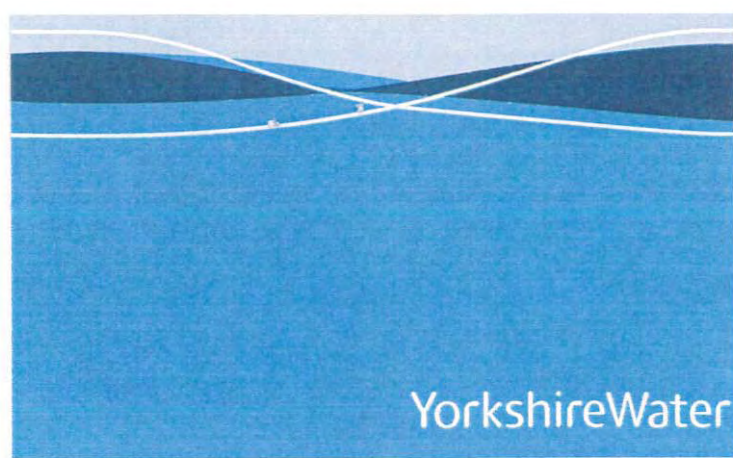
Thank you for seeking Yorkshire Forward's views on the above planning application. We welcome the opportunity to comment on planning applications in line with our notification criteria, as part of our role as a statutory consultee on planning matters. However we have no observations to make on this application.

Please do not hesitate to contact me if you have any comments or queries regarding this response.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'John Pilgrim'.

John Pilgrim
Senior Planning Executive



Thank you for attached. However,
this location is not in YU's
operational boundary. Please refer
enquiry instead to Severn Trent

Jim McKeale
Technical Assistant

Land & Planning

Yorkshire Water Services Limited
Western House Halifax Road Bradford BD6 2LZ
T 01274 691111 F 01274 692643
www.yorkshirewater.com

APPENDIX 3

PRESENTATION OF ENVIRONMENTAL STATEMENT

APPENDIX 3

PRESENTATION OF THE ENVIRONMENTAL STATEMENT

An environmental statement is described under the EIA Regs as a statement:

- ‘(a) that includes such of the information referred to in Part 1 of Schedule 4 as is reasonably required to assess the environmental effects of the development and of any associated development and which the applicant can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile; but
- (b) that includes at least the information required in Part 2 of Schedule 4’.

(EIA Regs regulation 2)

The EIA Regs Schedule 4, Parts 1 and 2, set out the information for inclusion in an ES. Part 2 sets out the minimum requirements and is included below for reference:

Schedule 4 Part 2

- a description of the development comprising information on the site, design and size of the development;
- a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
- the data required to identify and assess the main effects which the development is likely to have on the environment;
- an outline of the main alternatives studies by the applicant and an indication of the main reasons for the applicant’s choice, taking into account the environmental effects;
- a non-technical summary of the information provided [*under the four paragraphs above*].

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 SI 2264 set out the requirements for information which must be provided as part of the DCO application. Applicants may also provide any other documents considered necessary to support the application. Information which is not environmental information (this is defined in Regulation 2 of the EIA Regs) need not be replicated or included in the ES.

The Commission advises that the ES should be laid out clearly with a minimum amount of technical terms and should provide a clear objective and realistic description of the likely significant impacts of the proposed development. The information should be presented so as to be comprehensible to the specialist and non-specialist alike.

The Commission recommends that the ES be concise with technical information placed in appendices.

ES Indicative Contents

The Commission emphasises that the ES should be a 'stand alone' document in line with best practice and case law.

Schedule 4 Part 1 of the EIA Regs sets out the aspects of the environment likely to be significantly affected by the development which should include '*in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors*' (paragraph 19).

The content of the ES should include as a minimum those matters set out in Schedule 4 Part 2 of the EIA Regs. This includes the consideration of 'Alternatives' which the Commission recommends could be addressed as a separate chapter in the ES.

Traffic and transport is not specified as a topic for assessment under Schedule 4; although in line with good practice the Commission considers it is an important consideration *per se*, as well as being the source of further impacts in terms of air quality and noise and vibration.

Balance

The Commission recommends that the ES should be balanced, with matters which give rise to a greater number or more significant impacts being given greater prominence. Where few or no impacts are identified, the technical section may be much shorter, with greater use of information in appendices as appropriate.

The Commission considers that the ES should not be a series of disparate reports and stresses the importance of considering combined and cumulative impacts.

Physical Scope

In general the Commission recommends that the physical scope for the EIA should be determined in the light of:

- the nature of the proposal being considered;
- the relevance in terms of the specialist topic;
- the breadth of the topic;
- the physical extent of any surveys or the study area; and
- the potential significant impacts.

Therefore, the Commission recommends that the study area for the EIA should include at least the whole of the application site, and include all offsite works. For certain topics, such as landscape and transport, the study area will need to be wider. The study area for each specialist topic should be clearly defined and determined by establishing the physical extent of the likely impacts in accordance with good practice.

The Commission considers that the study areas should be agreed, wherever possible, with the relevant statutory consultees and local authorities.

Temporal Scope

The assessment should consider:

- environmental impact during construction works;
- environmental impacts on completion/operation of the development;
- environmental impacts a suitable number of years after completion of the development in order to allow for traffic growth or maturing of any landscape proposals; and
- decommissioning.

In terms of decommissioning, the Commission acknowledges that the further into the future any assessment is made, the less reliance may be placed on the outcome. However, the purpose of such a long term assessment is to enable the decommissioning of the works to be taken into account in the design and use of materials such that structures can be taken down with the minimum of disruption, materials can be re-used and the site can be restored or put to a suitable new use. The Commission encourages consideration of such matters in the ES.

The Commission recommends that these matters should be set out clearly in the ES and that the suitable time period for the assessment should be agreed with the relevant statutory consultees.

The Commission considers that the duration of effects should use a standard terminology, which should be defined.

Baseline

The Commission recommends that the baseline should describe the position from which the impacts of the proposed development are measured. The baseline should be chosen carefully and, where possible, be consistent between topics.

The identification of a single baseline is to be welcomed in terms of the approach to the assessment, although the Commission considers that care should be taken to ensure that all the baseline data remains relevant and up to date. The Commission recommends that the baseline environment should

be clearly explained in the ES, including any dates of surveys. Wherever possible the baseline should be agreed with the appropriate consultees.

For each of the environmental topics, the data source(s) for the baseline should be set out together with any survey work undertaken with the dates.

Identification of Impacts and Method Statement

Legislation and Guidelines

In terms of the EIA methodology, the Commission recommends that reference should be made to best practice and any standards, guidelines and legislation that have been used to inform the assessment. This should include guidelines prepared by relevant professional bodies.

In terms of other regulatory regimes, the Commission recommends that relevant legislation and all permit and licences required should be listed in the ES where relevant to each topic. This information should also be submitted with the application in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 SI No. 2264.

In terms of assessing the impacts, the ES should approach all relevant planning and environmental policy – local, regional and national (and where appropriate international) – in a consistent manner.

Assessment of Effects and Impact Significance

The EIA Regs require the identification of the *'likely significant effects of the development on the environment'* (Schedule 4 Part 1 paragraph 20). Therefore, the Commission considers it is imperative for the ES to define the meaning of 'significant' in the context of each of the specialist topics` and for significant impacts to be clearly identified.

The Commission recommends that the criteria should be set out fully and that the ES should set out clearly the interpretation of 'significant' in terms of each of the EIA topics. Quantitative criteria should be used where available. The Commission considers that this should also apply to the consideration of cumulative impacts and impact interactions.

Potential Environmental Impacts

The Commission considers these under Section 3: the EIA Topic Areas of this opinion.

Impact Inter-actions/Combined Impacts

Multiple impacts on the same receptor should be taken into account. These occur where a number of separate impacts, eg. noise and air quality, affect a single receptor such as fauna.

The Commission considers that the combined effects of the proposed development should be assessed and that details should be provided as to how interactions will be assessed in order to address the environmental impacts of the proposal as a whole.

Cumulative Impacts

The ES should describe the baseline situation and the proposed development within the context of the site and any other proposals in the vicinity.

Other major development in the area should be identified beyond the proposal itself including any associated development. The Commission recommends that this should be identified through consultation with the local planning authorities on the basis of major developments that are:

- built and operational;
- under construction;
- permitted application(s), but not yet implemented;
- submitted application(s) not yet determined, and if permitted would affect the proposed development in the Scoping Report; and
- identified in the Development Plan (and emerging Development Plans - with appropriate weight being given as they move closer to adoption) recognising that much information on any relevant proposals will be limited.

Details should be provided in the ES, including the types of development, location and key aspects that may affect the EIA and have been taken into account as part of the assessment.

Associated development

The ES should give equal prominence to any development which is associated with the proposed development to ensure that all the impacts of the proposal are assessed.

The Commission recommends that the applicant should distinguish between development for which development consent will be sought and any other development. This distinction should be clear in the ES.

Alternatives

The ES must set out an outline of the main alternatives studied by the applicant and provide an indication of the main reasons for the applicant's choice, taking account of the environmental effect (Schedule 4 part 1 paragraph 18).

Matters should be included, such as *inter alia* alternative design options and alternative mitigation measures. The justification for the final choice and evolution of the scheme development should be made clear. Where other sites have been considered, the reasons for the final choice should be addressed.

The Commission advises that the ES should give sufficient attention to the alternative forms and locations for the off-site proposals, where appropriate, and justify the needs and choices made in terms of the form of the development proposed and the sites chosen.

Mitigation Measures

Mitigation measures may fall into certain categories: namely avoid; reduce; compensate or enhance; and should be identified as such in the specialist sections (Schedule 4 part 1 paragraph 21). Mitigation measures should not be developed in isolation as they may relate to more than one topic area.

The effectiveness of mitigation should be apparent. Only mitigation measures which are a firm commitment should be taken into account as part of the assessment.

The application itself will need to demonstrate how the mitigation would be delivered, and only mitigation which can be shown to be deliverable should be taken into account as part of the EIA.

It would be helpful if the mitigation measures proposed could be cross referred to specific provisions and/or requirements proposed within the draft development consent order. This could be achieved by means of describing the mitigation measures proposed either in each of the specialist reports or collating these within a summary section on mitigation.

Trans-boundary Effects

The Commission recommends that consideration should be given in the ES to any likely significant effects on the environment of another Member State of the European Economic Area. In particular, the Commission recommends consideration should be given to discharges to the air and sea and to potential impacts on migratory species.

Presentation

The Commission recommends that all paragraphs in the ES should be numbered. This is for ease of reference. Appendices must be clearly referenced, again with all paragraphs numbered. All figures and drawings should be clearly referenced.

Cross References and Interactions

The Commission recommends that all the specialist topics in the ES should cross reference their text to other relevant disciplines. Interactions between the specialist topics is essential to the production of a robust assessment, as the ES should not be a collection of separate specialist topics, but a comprehensive assessment of the environmental impacts of the proposal and how these impacts can be mitigated.

As set out in EIA Regs Schedule 4 Part 1 paragraph 23, the ES should include an indication of any technical difficulties (technical deficiencies or lack of know-how) encountered by the applicant in compiling the required information.

Terminology and Glossary of Technical Terms

The Commission recommends that a common terminology should be adopted. This will help to ensure consistency and ease of understanding for the decision making process. For example, 'the site' should be defined and used only in terms of this definition so as to avoid confusion with, for example, the wider site area or the surrounding site.

A glossary of technical terms should be included in the ES.

Summary Tables

The Commission recommends that in order to assist the decision making process, the applicant may wish to consider the use of tables to identify and collate the residual impacts after mitigation. This would include the EIA topics, and combined and cumulative impacts.

A table setting out the mitigation measures proposed would assist the reader and the Commission recommends that this would also enable the applicant to cross refer mitigation to specific provisions proposed to be included within the draft Order.

The ES should also demonstrate how the assessment has taken account of this Opinion and other responses to consultation. The Commission recommends that this may be most simply expressed in a table.

Bibliography

A bibliography should be included in the ES. The author, date and publication title should be included for all references.

Non Technical Summary

The EIA Regs require a Non Technical Summary (EIA Regs Schedule 4 Part 1 paragraph 22). This should be a summary of the assessment in simple language. It should be supported by appropriate figures, photographs and photomontages.

Consultation

The Commission recommends that any changes to the scheme design in response to consultation should be addressed in the ES.

It is recommended that the applicant provides preliminary environmental information to the local authorities.

Consultation with the local community should be carried out in accordance with the SoCC which will state how the applicant intends to consult on the preliminary environmental information (this term is defined in the EIA Regs under regulation 2 'Interpretation'). This preliminary information could include results of detailed surveys and recommended mitigation actions. Where effective consultation is carried out in accordance with s47 of the Planning Act, this could usefully assist the applicant in the EIA process – for example the local community may be able to identify possible mitigation measures to address the impacts identified in the preliminary environmental information. Attention is drawn to the duty upon applicants under s50 of the Planning Act to have regard to the guidance on pre-application consultation.

Environmental Management

The Commission advises that it is considered best practice to outline in the ES, the structure of the environmental management and monitoring plan (EMMP) and safety procedures which will be adopted during construction and operation.