



# Able Marine Energy Park

## *Statutory Nuisance Assessment*

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ERM

# 1 ASSESSMENT AS TO THE EFFECTS ON STATUTORY NUISANCES

## 1.1 INTRODUCTION

This statement is submitted on behalf of Able Humber Ports Ltd (Able) pursuant to Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 and in accordance with the Department of Communities and Local Government guidance, 'Planning Act 2008: Application Form Guidance' and the IPC Guidance Note 2 on Preparation of Application Documents under s37 of the Planning Act 2008 as an application document. It identifies whether the Project may result in statutory nuisances, as defined in the Environmental Protection Act 1990, and sets out the proposals for mitigating or limiting such nuisance.

This document accompanies an application to the Infrastructure Planning Commission for the Able Marine Energy Park (AMEP), which would authorise the construction and operation of a harbour facility on the south bank of the Humber Estuary, to serve the needs of the offshore wind industry. A new quay will be built, together with facilities for the manufacture, assembly and storage of marine energy components including wind turbines and related items.

This statement addresses Section 79(1) Environmental Protection Act 1990 (Statutory nuisances and inspections therefore). Whilst it is not expected that the construction or operation of AMEP would engage that section, the draft development consent order (DCO) that accompanies the application contains a provision at Article 51 that would provide a defence to proceedings for statutory nuisance should they be initiated against Able or its successors as undertakers under the terms of the DCO.

## 1.2 SUMMARY

This statement identifies the matters set out in Section 79(1) of the Environmental Protection Act 1990 in respect of statutory nuisances and considers whether the Project would engage one or more of those matters. Where any matters may potentially arise the statement sets out its proposals for mitigating or limiting them.

This statement concludes that the only matters comprised in Section 79(1) of the 1990 Act, which may potentially be engaged as a consequence of the authorised project are:

- Air Quality;
- Noise and Vibration; and
- Light

### 1.2.1 *Air Quality*

#### *Residual Impacts*

As discussed in *Section 17.8* of the Environmental Statement, the correct implementation of dust mitigation measures is predicted to render residual impacts not significant, in terms of impacts arising in association with dust emissions from the construction works.

The assessment of impacts arising from construction traffic indicates that impacts will be insignificant.

Similarly, there are no significant residual impacts identified associated with the operation of the AMEP site. With regard to operational traffic, no significant impacts are identified in the context of the existing environment. However, it may be the case that in the future an Air Quality Management Area is declared in North Killingholme. In this case, the impacts associated with operational traffic will be, at worst, of minor adverse significance. The assessment of odour indicates that emissions of odour will not result in significant off-site impacts.

#### *Mitigation*

The mitigation measures to be put in place (*Section 17.7* of the Environmental Statement) to secure that a nuisance does not arise in the ordinary course of events is secured by:

- a dust management plan;
- the Code of Construction Practice, which is to be found at *Annex 4.2* of the Environmental Statement; and
- the requirements that are contained in Schedule 11 to the draft DCO.

## 1.2.2

### *Noise and Vibration*

#### *Residual Impacts*

As discussed in *Section 16.8* of the Environmental Statement, the predicted residual noise levels from construction show minor impacts during the daytime period at Sands Farm, Sands House, Fairview, Stone Creek House and Saltaugh House. The noise levels predicted at these receptors are dominated by noise emissions from the construction activities at the Compensation Site. The residual impact ratings for the construction phase are generally unchanged for the receptors on the north side of the Humber due to the dominance of noise from the construction of the Compensation Site.

Due to predicted noise levels from typical operations without mitigation controls being below the threshold values, there are no residual impacts at the operational phase of the project.

There are no significant vibration generating sources from the operation and hence impacts from vibration are not expected to occur.

Ground vibration from pile driving during construction is likely to be perceptible at the nearest sensitive receptors when piling activities approach within a distance of 120 m to 250 m of them. These levels would not normally present any significant concerns of cosmetic damage to a building, but would be noticeable by the occupant and likely to cause adverse comment and/ or complaint.

#### *Mitigation*

The mitigation to be put in place (*Section 16.7* of the Environmental Statement) to secure that a nuisance does not arise in the ordinary course of events is secured by:

- the Code of Construction Practice, which is to be found at *Annex 4.2* of the Environmental Statement; and
- the requirements that are contained in Schedule 11 to the draft DCO.
- It is recommended that those parties most likely to be affected by vibration from piling activities be advised of the piling programme in advance of the works being undertaken.

In addition to these mitigation measures, construction works and vibration generating activities will be guided by best practices outlined

in BS 5228 and where feasible mitigation is identified, it shall be included in the *Code of Construction Practice*.

### 1.2.3 *Light*

#### *Residual Impacts*

As discussed in *Section 19.8* of the Environmental Statement, following the implementation of the mitigation measures there will remain a moderate significant light impact on the amenity of the residential receptor at Hazel Dene. This is due to the relative proximity of the property, the tall height of the lighting columns and the difficulty in providing effective screening taking ecological requirements into account.

There will be no residual light impacts arising from AMEP on other sensitive receptors.

#### *Mitigation*

The mitigation to be put in place (*Section 16.7* of the Environmental Statement) to secure that a nuisance does not arise in the ordinary course of events is secured by:

- the Code of Construction Practice, which is to be found at *Annex 4.2* of the Environmental Statement; and
- the requirements that are contained in Schedule 11 to the draft DCO.

## 1.3 *CONCLUSION*

This statement identifies the matters set out in Section 79(1) of the Environmental Protection Act 1990 in respect of statutory nuisances and considers whether the proposed development would engage one or more of those matters.

It has been demonstrated in *Section 1.2.1* and *Section 1.2.2* that the Project would have no residual air quality or noise/vibration impacts. *Section 1.2.3* identifies that the Project would have a residual light impact on one residential receptor. All the impacts identified by the Environmental Statement would be suitably mitigated and secured by appropriate conditions and requirements.

However, it should be noted that in any event, the provisions of Article 51 of the DCO do not provide an absolute defence. For Able to benefit from the defence it is necessary to have in place requisite notices, consents or agreements and to be abiding by the terms of the relevant notices, consents or agreements.