

Kathrine Haddrell
Senior Case Manager
3/18 Eagle Wing
Temple Quay House
Temple Quay
Bristol, BS1 6PN

20th March 2013

Dear Ms Haddrell,

**APPLICATION UNDER SECTION 95(4) OF THE PLANNING ACT 2008
FOR A PARTIAL AWARD OF COSTS IN ASSOCIATION WITH THE
PROPOSED ABLE MARINE ENERGY PARK BY ABLE HUMBER
PORTS LTD: Ref TRO 30001**

I refer to Messrs Bircham Dyson Bell's (BDB) letter dated 31st January, 2013, in respect of the above matter.

My client maintains his opinion that Able UK submitted an inadequately informed application to the Infrastructure Planning Commission and the fact that the proposals were substantially amended during the examination process confirms his view.

My letter of 12th December 2012, makes it clear that the costs application relates to "additional" work commissioned during the examination process as a direct result of the inadequacies of the original proposal - a situation that is acknowledged in the BDB letter.

Whilst the BDB letter refers to the professional advice and wide ranging documentation submitted with the original application, and to the consultation processes that were undertaken in advance of the submission, it fails to acknowledge that various parties told Able UK and their advisers that the scheme would not work during the pre-application consultation period.

Able UK and their advisers simply did not listen to that advice and that was an unreasonable response, in my client's opinion. The statement that "Able UK could not have realised the proposals would not function as predicted prior to the submissions made by parties during the examination period" is a complete denial of what they were told during the pre-application consultation process.

The fact that the application was accepted as a valid application by the examining authority represents a failure of process as well as unreasonable behaviour by the applicants since there was clear evidence at the time to suggest that the proposed compensation scheme would not function as predicted.

On the matter of land contamination, it remains a fact that Able UK did not submit all the on-site borehole information obtained by their consultants for public scrutiny. This was unreasonable (and represents a further failure of process on behalf of the examining authority as well as unreasonable behaviour by the applicants).

My client maintains - and the facts of the matter clearly support him - that the applicants submitted fresh and substantial evidence at a late stage in the examination proceedings and that such actions could, (and should), have been avoided had they taken a reasonable approach to pre-application consultations.

The fact that the applicants were allowed to substantially amend the proposals at such a late stage in the examination process represents a further failure of process, as well as unreasonable behaviour on the applicant's part.

My client also maintains that the supply of information from the applicants to some parties to the examination process has been inadequate and discriminatory putting him (and others) at a significant disadvantage and causing unnecessary and unreasonable effort and expense.

My client has no further comments to make on the response letter from BDB dated 31st January 2013,

Yours sincerely,

David Hickling.