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1 May 2012

ABLE MARINE ENERGY PARK – NOTICE OF APPOINTMENT OF EXAMINING AUTHORITY

PLANNING ACT 2008 (PA 2008) (as amended) AND THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010 (as amended)

PINS Reference: TR030001

I am writing to notify you that on 13 April 2012 a Panel was appointed to hold the examination of this application¹. The members of the Panel (“the Examining authority”) are as follows:

- Robert Upton – lead member of the Panel
- Peter Widd – member of the Panel
- Simon Gibbs – member of the Panel

The lead member of the Panel is writing to you separately with details of the forthcoming preliminary meeting and providing details of the Examining authority’s initial assessment of the issues and draft timetable for the examination of this application.

Yours sincerely

Pauleen Lane

Pauleen Lane
Group Manager, National Infrastructure

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.

¹ s65 of the PA 2008 as amended &
Rule 4, Infrastructure Planning (Examination Procedure) Rules 2010
<http://www.planningportal.gov.uk/infrastructure>





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1 May 2012

ABLE MARINE ENERGY PARK – NOTICE OF PRELIMINARY MEETING AND AVAILABILITY OF RELEVANT REPRESENTATIONS

PLANNING ACT 2008 (PA 2008) AND THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

PINS Reference: TR030001

I am writing to you following my appointment¹ by the Secretary of State on 13 April 2012 as the Lead member of the panel, with two other panel members, Simon Gibbs and Peter Widd. Together we are the appointed persons forming the Examining authority (ExA) who will examine this application for a Development Consent Order (DCO).

The Examining authority would like to thank those of you who have taken the time to submit relevant representations. The ExA has considered them and they have informed our proposals, set out below, for the conduct of the examination.

There are three main parts to my letter and a number of supporting Annexes:

Parts:

1. An invitation to the preliminary meeting;
2. Details to explain the purpose of the preliminary meeting; and,
3. Arrangements for the preliminary meeting and details about how to suggest additional agenda items.

Annex:

- A. Availability of relevant representations and application documents;
- B. Agenda for the Preliminary Meeting;
- C. Initial Assessment of Principal Issues;
- D. Draft Timetable for Examination of the Application; and,
- E. Appropriate Assessment.

¹ s61 PA 2008 and Rule 4 The Infrastructure Planning (Examination Procedure) Rules 2010 (EPR)

1. *Invitation to the preliminary meeting*

I am informing you of the date, time and place of the preliminary meeting and inviting you to attend that meeting².

The preliminary meeting will take place on 24 May 2012. Registration will begin at 10am and the meeting is scheduled to start at 10:30am at Immingham Town Council Civic Centre, Pelham Road, Immingham, North East Lincs, DN40 1QF.³

If you wish to attend the preliminary meeting please write, email or telephone to confirm your intention, using the address and contact details set out at the front of this letter and marking it for the attention of Mike Harris, the Case Manager. We need to receive your confirmation by **5pm on 22 May 2012**.

It will help the management of the meeting for the benefit of all if you are able to:

- confirm your attendance; and
- inform us whether you wish to speak at the meeting and to note the agenda items you wish to speak to, listing points you wish to make.

2. *The purpose of the preliminary meeting*

The purpose of the meeting is to enable views to be expressed about matters set out in the agenda (**Annex B**) and in particular to hear representations about the way in which the application is to be examined.

It is important to understand that the preliminary meeting is about procedure. It is about how the examination will be conducted; it is not about the merits of the application. The merits will be considered when the examination of the application takes place, through the written representations and the programmed hearings. Further information about preliminary meetings is given in The Planning Inspectorate's Advice Note 8.4 which is available on the National Infrastructure pages of the Planning Portal website:

<http://infrastructure.planningportal.gov.uk/wp-content/uploads/2012/03/Advice-note-8.4.pdf>

We wish to run a fair, efficient and effective preliminary meeting. If there is a group of individuals who share particular procedural concerns we strongly encourage one representative only to speak on behalf of that group.

² s88(3) PA 2008 and Rule 6 EPR

³ Rule 6 EPR In the event that further time is required to complete the business of the Preliminary Meeting the Preliminary Meeting will resume at the same venue at a time and date that will be confirmed orally at the preliminary meeting scheduled for 24 May 2012

The agenda for the meeting is outlined at **Annex B**. This has been set following the ExA's initial assessment of the principal issues⁴ arising on the application. This assessment is set out in the statement of principal issues at **Annex C**. These are the principal issues that the ExA has so far identified; the ExA wish to hear from the applicant, Interested Parties, statutory parties and local authorities⁵ where they consider there may be other key issues to be examined.

After the meeting, the ExA must decide how the application is to be examined⁶. You will find our initial proposals regarding the way in which the examination will be approached and programmed at **Annex D**. This sets a timetable giving proposed deadlines for information to be submitted to the examination, the different stages and methods of examination and dates for any hearings⁷ that are currently proposed or may be requested. The ExA wishes to hear at the meeting from the applicant, Interested Parties, statutory parties and local authorities where they consider issues may need to be examined in a different way from that set out in **Annex D**.

3. Arrangements for the preliminary meeting and details about how to suggest additional agenda items

Please bring the covering letter/email with you to the preliminary meeting as proof of your identity and your invitation to the meeting.

On arrival at the venue you will be asked to register your name and any unique identity number with staff of The Planning Inspectorate. Priority will be given to the applicant and those identified as Interested Parties, statutory parties, local authorities and invited persons before seating is allocated to other members of the public. The ExA may exercise its discretion to permit any person, in addition to those who are entitled to take part, to participate in the meeting.

If you wish to make any submissions on matters not set out in the agenda and which you think would enhance the discussion at the preliminary meeting, please write to Mike Harris (Case Manager) setting out the submissions that you wish to make at least **seven days** before the preliminary meeting. The ExA will endeavour to accommodate reasonable requests and will alter the agenda on opening the preliminary meeting if it considers this will assist the discussion of the procedure for the examination of the application.

A note will be taken of the preliminary meeting. This will be published on the National Infrastructure pages of the Planning Portal's website and deposited at the locations listed at **Annex A** as soon as practicable⁸ after the meeting. Please note that an audio recording of the meeting will also be taken and made available on the National Infrastructure pages of the Planning Portal's website as soon as practicable after the meeting.

⁴ s88(1) PA 2008 and Rule 5 EPR

⁵ who are adjoining local authorities under s88A (PA 2008)

⁶ s89(1) PA 2008

⁷ Rule 8 EPR

⁸ Rule 7(2) EPR

After considering views put forward at the meeting, the ExA will decide how the application is to be examined. The Planning Inspectorate will send you a copy of the ExA's procedural decision as to how the application is to be examined⁹ as soon as practicable after the meeting.

Please note that you are **not** required to attend the preliminary meeting in order to participate in the examination. If you are an Interested Party¹⁰ you will still be able to make written representations and participate in any hearings that are arranged. Should you no longer wish to be an Interested Party and be involved in the examination process, you can notify the ExA of this in writing¹¹.

The ExA's examination of the application is to take the form of consideration of written representations about the application¹². The ExA will also consider any oral representations made at hearings. All relevant and important matters will be taken into account when the ExA makes a recommendation to the Secretary of State for Transport, who will ultimately take the final decision in this case.

The ExA looks forward to working with all parties in the examination of this application.

Yours sincerely

Robert Upton

Robert Upton

Lead member of the Examining authority – on behalf of the Panel

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A record of the advice which is provided will be recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.

⁹ s89 PA 2008 and Rule 9 EPR

¹⁰ s102 PA 2008

¹¹ s102(1ZA) PA 2008

¹² s90 PA 2008

Annex A

Availability of relevant representations and application documents

On the National Infrastructure pages of the Planning Portal's website at <http://infrastructure.planningportal.gov.uk/projects/yorkshire-and-the-humber/able-marine-energy-park/>

For inspection and copying at:

Immingham Library
Civic Centre
Pelham Road
Immingham
DN40 1QF

Opening times: Monday to Friday 9am to 5.30pm
Saturday 9am to 2pm

Copying charges: A4 10p per page (black & white only)
A3 20p per page (black & white only)

East Riding of Yorkshire Council
Customer Service Centre
2 New Road
Hedon
HU12 8EN

Opening times: Monday to Thursday 9am to 5pm
Friday 9am to 4.30pm
Saturday and Sunday Closed

Copying charges: A4 10p per page (black & white)
A4 £1 per page (colour)
A3 £1 per page (black & white)
A3 £2 per page (colour?)

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Copying charges: 10p per A4 sheet (black and white) other sizes on request at additional cost (Copying charges quoted are indicative costs as at April 2012)

Opening hours: 10.00am to 4.00pm Monday to Friday

Annex B

Agenda for the Preliminary Meeting

Date: Thursday 24 May 2012

Meeting Start Time: 10:30am

Venue: Immingham Town Council Civic Centre, Pelham Road, Immingham, North East Lincs, DN40 1QF.

10:00	Registration and Orientation
10:30 – 16:30 (lunch break 12:45 -14:00)	Welcome and Introductions Principles of the Examination Process Appropriate Assessment Methodology Draft Timetable for the Examination – see Annex C Deadlines for submissions: <ul style="list-style-type: none">▪ All Written Submissions▪ Local Impact Reports▪ Responses to Examining Authority's written questions▪ Statements of Common Ground▪ Notifications relating to hearings Hearings and Accompanied Site Visit: <ul style="list-style-type: none">▪ Time period reserved for accompanied site visit to application site and surrounding area▪ Time period reserved for Open Floor Hearing(s)▪ Time period reserved for Issue Specific Hearings▪ Compulsory Acquisition Hearings

Please note: The timings above are only indicative and anyone wishing to take part should register and make themselves available from the start and throughout the meeting. Should the consideration of the issues take less time than anticipated, the Examining authority will conclude the meeting as soon as all relevant contributions have been made. If there are additional matters to be dealt with or any agenda item results in submissions that take a considerable amount of time the meeting may run for longer, the order in which matters are taken may change and additional breaks may be added.

Annex C

Initial Assessment of Principal Issues

This is the initial assessment of the principal issues arising from consideration by the Examining authority of the application documents and relevant representations received concerning the proposed Able Marine Energy Park on the south bank of the River Humber near Immingham, North Lincolnshire and the proposed compensation site at Cherry Cobb Sands on the north bank.

It is not a comprehensive or exclusive list of all relevant matters. The ExA will have regard to all important and relevant matters in putting forward a recommendation after the examination is concluded.

1. The capacity of the proposed port in relation to the threshold set out in Planning Act 2008.
2. The extent to which the proposed port might have significant adverse navigation or other marine impacts on other operators in the Humber estuary, and possible mitigation requirements.
3. The scope and scale of the principal and associated development constituting the proposal, and the extent of the land proposed for compulsory acquisition.
4. The design process that has been followed, and the extent to which the proposed development is shown to be sustainable and fit-for-purpose.
5. The extent of the likely impacts of the proposed development and compensation sites on the European (SAC, SPA and Ramsar) and other sites.
6. The basis for the assessment of the proposed compensation site requirements, the basis on which the specific sites have been identified, the adequacy and appropriateness of those sites and the consequential impacts of their use for this purpose.
7. The impacts of the proposed development on land traffic and the adequacy of the proposed mitigation.
8. The impacts of the proposed development on the assets and operations of Network Rail.
9. The relationship of the proposed port to the emerging requirements of the Marine Management Organisation's East Inshore Marine Plan.
10. The adequacy and efficacy of the draft Development Consent Order and the draft Marine Licence.

Robert Upton (23 April 2012)

Lead member of the Examining authority – on behalf of the Panel

Annex D

Timetable for Examination of the Application

The Examining authority is under a duty to **complete** the examination of the application by the end of the period of 6 months beginning with the day after the start day (s98 PA 2008).

Item	Matters	Due Dates
1	Preliminary Meeting	Thursday 24 May 2012
2	Issue of: <input type="checkbox"/> Procedural timetable ¹³ <input type="checkbox"/> Note of preliminary meeting held on 24 May 2012 ¹⁴ <input type="checkbox"/> First written questions ¹⁵	Friday 1 June 2012
3	Date by which Statutory Parties (SP) must notify the Examining Authority of their wish to be considered as an Interested Party ¹⁶	Friday 15 June 2012
4	Deadline for receipt by the ExA of: <input type="checkbox"/> Comments on Relevant Representations ¹⁷ (RRs) <input type="checkbox"/> Any summaries of RR's exceeding 1500 words ¹⁸ <input type="checkbox"/> Written Representations (WRs) by all interested parties ¹⁹ <input type="checkbox"/> Any summaries of WRs exceeding 1500 words ²⁰ <input type="checkbox"/> Local Impact Report (LIR) from any local authorities ^{21 22} <input type="checkbox"/> Responses to ExA's first written questions ²³ <input type="checkbox"/> Notification by an Interested Party of their wish to be heard at (a) an Open Floor hearing and (b) a Compulsory Acquisition hearing ²⁴	Friday 29 June 2012

¹³ Rule 8(1) and (2) The Infrastructure Planning (Examination Procedure) Rules 2010 (EPR)

¹⁴ Rule 7(2) EPR

¹⁵ Rule 8(1)(b)(i) and (iii) EPR

¹⁶ s102 PA 2008

¹⁷ Rule 8(1)(c)(i) & (d)(i) and Rule 3(2)(b) EPR

¹⁸ Rule 8(1)(i) EPR

5	Deadline for receipt by the ExA of: <input type="checkbox"/> Notification of wish to make oral representations at the Issue Specific hearing on the draft Development Consent Order including the draft Deemed Marine Licence	Monday 2 July 2012
6	Issue Specific hearing on the draft Development Consent Order including the draft Deemed Marine Licence ²⁵	Thursday 12 July 2012
7	Deadline for receipt by the ExA of: <input type="checkbox"/> Any written summary of the oral case put at the Issue Specific hearing on the draft Development Consent Order including the draft Deemed Marine Licence held on Thursday 12 July 2012	Monday 23 July 2012
8	Deadline for receipt by the ExA of: <input type="checkbox"/> Comments on WRs and responses to comments on RRs ²⁶ <input type="checkbox"/> Comments on LIRs ²⁷ <input type="checkbox"/> Comments on responses to ExA's first written questions ²⁸ <input type="checkbox"/> Any Statements of Common Ground (other than on Habitat Regulations Assessment (HRA) matters) ²⁹	Friday 27 July 2012
9	Issue of: <input type="checkbox"/> Second written questions ³⁰	Tuesday 7 August 2012
10	Deadline for receipt by the ExA of: <input type="checkbox"/> Statements of Common Ground on HRA ³¹	Friday 24 August 2012

¹⁹ Rule 8(1)(a) and Rule 10(1) & (2) EPR

²⁰ Rule 8(1)(i) EPR

²¹ Rule 8(1)(j) EPR

²² Notification is also hereby given under s60(2) PA 2008 (as amended)

²³ Rule 8(1)(b) EPR

²⁴ Rule 8(1)(f) and (g) EPR

²⁵ Rule 8(1)(h) EPR

²⁶ Rule 8(1)(c)(ii) & (d)(ii) and Rule 10(5) EPR

²⁷ Rule 8(1)(j) EPR

²⁸ Rule 8(c)(ii) & (d)(ii) EPR

²⁹ Rule 8(1)(e)

³⁰ Rule 8(1)(b)(i) and (iii) EPR

³¹ Rule 8(1)(e) EPR

11	<p>Deadline for receipt by the ExA of:</p> <p><input type="checkbox"/> Notification of wish to make oral representations at the Issue Specific Hearing on HRA matters relating to the compensation site (11 September), HRA matters relating to the main development site (12 September), land and transport access and marine navigation (13 September)</p>	Friday 31 August 2012
12	<p>Deadline for receipt by the ExA of:</p> <p><input type="checkbox"/> Responses to ExA's second written questions³²</p>	Tuesday 4 September 2012
13	Date reserved for possible Open Floor Hearing in East Riding of Yorkshire area	Wednesday 5 September 2012
14	Date reserved for possible Open Floor Hearing in North Lincolnshire area	Thursday 6 September 2012
15	Date reserved for Issue Specific Hearing dealing with HRA matters relating to the compensation site ³³	Tuesday 11 September 2012
16	Date reserved for Issue Specific Hearing dealing with HRA matters relating to the main development site	Wednesday 12 September 2012
17	Date reserved for Issue Specific Hearing dealing with land and transport access and marine navigation	Thursday 13 September 2012
18	<p>Deadline for receipt by the ExA of:</p> <p><input type="checkbox"/> Any written summary of the oral case put at any Open Floor Hearing held in the East Riding of Yorkshire (5 September 2012) and North Lincolnshire (6 September 2012) areas.</p>	Monday 17 September 2012
19	<p>Deadline for receipt by the ExA of:</p> <p><input type="checkbox"/> Any written summary of the oral case put at any Issue Specific Hearing held on HRA matters relating to the compensation site (11 September 2012), HRA matters relating to the main development site (12 September 2012), land and transport access and marine navigation (13 September 2012)</p>	Monday 24 September 2012
20	<p>Deadline for receipt by the ExA of:</p> <p><input type="checkbox"/> Notification of wish to make oral representations at the Issue Specific Hearing dealing with HRA (compensation site) (9 October), Compulsory Acquisition (compensation site) (9 October), Compulsory Acquisition Hearings (main development</p>	Friday 28 September 2012

³² Rule 8(1)(b) EPR

³³ Rule 8(1)(h) EPR

	site) (10 October), further Issue Specific Hearings dealing with HRA (main development site) (11 October) and the draft Development Consent Order and Local Impact Reports (16 October).	
21	Deadline for receipt by the ExA of: <input type="checkbox"/> Comments on responses to ExA's second written questions ³⁴	Tuesday 2 October 2012
22	Deadline for receipt by the ExA of: <input type="checkbox"/> Any revised proposed requirements for inclusion within the draft Development Consent Order (including the deemed Marine Licence)	Tuesday 9 October 2012
23	Dates reserved for further Issue Specific Hearings dealing with HRA (compensation site) ³⁵	Tuesday 9 October 2012 (AM)
24	Dates reserved for further Issue Specific Hearings dealing with Compulsory Acquisition (compensation site)	Tuesday 9 October 2012 (PM)
25	Date reserved for Compulsory Acquisition Hearings (main development site)	Wednesday 10 October 2012
26	Dates reserved for further Issue Specific Hearings dealing with HRA (main development site)	Thursday 11 October 2012
27	Date reserved for Issue Specific Hearings dealing with the draft Development Consent Order and Local Impact Reports ³⁶	Tuesday 16 October 2012
28	Date reserved for accompanied site visit to application site and surrounding area ³⁷	Wednesday 17 October 2012
29	Date reserved for possible accompanied site visit of marine environment ³⁸	Thursday 18 October 2012
30	Deadline for receipt by the ExA of: <input type="checkbox"/> Any written summary of the oral case put at the further Issue Specific Hearings dealing with HRA (compensation site) (9 October), for further Issue Specific Hearings dealing with Compulsory Acquisition (compensation site) (9 October), Compulsory Acquisition Hearings (main development site) (10	Friday 26 October 2012

³⁴ Rule 8(c)(ii) and (d)(ii) EPR

³⁵ Rule 8(1)(h) EPR

³⁶ Rule 8(1)(h) EPR

³⁷ Rule 16(2) EPR

³⁸ Rule 16(2) EPR

	October), further Issue Specific Hearings dealing with HRA (main development site) (11 October) and Issue Specific Hearings dealing with the draft Development Consent Order and Local Impact Reports (16 October)	
31	The Examining authority is under a duty to complete the Examining authority's examination of the application by the end of the period of 6 months beginning with the day after the close of the preliminary meeting ³⁹	Final date by which examination must be completed Sunday 25 November 2012

³⁹ s98 PA 2008

Annex E: Appropriate Assessment

The ExA needs to ensure that during the examination a process is adopted to ensure that sufficient information is provided to enable the Secretary of State (SofS) to have confidence in meeting his/her statutory duties as the competent authority under the Conservation of Habitats and Species Regulations 2010 (as amended) (Habitats Regulations).

The ExA will submit a 'shadow' assessment for the SofS to consider, based on information provided within the DCO application and supporting documents and gathered through the examination process.

As part of the ExA's first questions, the applicant will be asked to provide a review and referencing of all relevant habitats information and source documentation submitted with the application and updating and reporting on any matters arising since submission (a 'screening matrix').

Opportunities will be given during the examination for interested parties to comment on the content and conclusions of the screening matrix, which will be updated during the examination as information arises.