

PROPOSED ABLE MARINE ENERGY PARK

IPC REFERENCE: TR030001

STATEMENT OF COMMON GROUND

between

ABLE HUMBER PORTS LTD

and

NORTH EAST LINCOLNSHIRE COUNCIL

DATED: 25th July 12

SIGNED on behalf of **Able Humber
Ports Ltd**

Signature

Signature removed

SIGNED on behalf of **North East
Lincolnshire Council**

Signature

Signature removed

Position **DESIGN MANAGER (ABLE HULL LTD)**

Date **25th JULY 2012**

Position **LEAD OFFICER FOR PLANNING**

Date **25th JULY 2012**

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SECTION 1: INTRODUCTION AND SCOPE

General

1. On 12 January 2012 the Infrastructure Planning Commission ('IPC') accepted an application ('the application') that was submitted by Able Humber Ports Limited ('AHPL') for a development Consent Order ('DCO') to construct and operate a harbour capable of handling over 5 million tonnes of material per year together with associated works.
2. The application incorporates three geographically distinct areas.
 - a. A harbour and associated industrial development on the south bank of the Humber within the administrative area of North Lincolnshire ('AMEP').
 - b. An intertidal compensatory habitat site on the north bank of the Humber within the administrative area of East Riding of Yorkshire ('the compensation site').
 - c. A wet grassland, Old Little Humber Farm, site also within the administrative area of the East Riding of Yorkshire ('OLHF').
3. This document is the statement of common ground ('SoCG') between AHPL and North East Lincolnshire Council (NELC)
4. The Infrastructure Planning (Examination Procedure) Rules 2010, defines a statement of common ground (SoCG) as, 'a written statement prepared jointly by the applicant and any interested party, which contains agreed factual information about the application'.
5. Section 87 of the Planning Act 2008 provides that when making any decision about how an application is to be examined, the Examining Authority must have regard to any guidance issued by the Secretary of State on how applications for development consent for nationally significant infrastructure projects ('NSIPs') are to be examined. In 2010, the Department for Communities and Local Government issued, 'Planning Act 2008: Guidance for the examination of applications for development consent for nationally significant infrastructure projects'. That guidance provides the following advice on the contents of an SoCG:

'63. The statement of common ground is a written statement prepared jointly by the applicant and the main objectors, setting out the agreed factual information about the application. A statement of common ground is useful to ensure that the evidence at the examination focuses on the material differences between the main parties. Effective use of such statements is expected to lead to a more efficient examination process.'

'64. The statement should contain basic information on which the parties have agreed, such as the precise nature of the proposed infrastructure, a description of the site and its planning history. In addition to basic information about the application, agreement can often be reached on technical matters and topics that rely on basic statistical data. For example, traffic evidence can be simplified and the issues refined by agreeing matters such as traffic flows, design standards, and

the basis for forecasting the level of traffic the application would generate. The topics on which agreement might be reached in any particular instance will depend on the matters at issue and the circumstances of the case.

65. As well as identifying matters which are not in real dispute, it may also be useful for the statement to identify areas where agreement is not possible. The statement should include references to show where those matters are dealt with in the written representations or other documentary evidence. Agreement should also be sought before the examination commences about the requirements that any order granted should contain.

66. How such agreement is reached will vary depending on the nature and complexity of the application and the matters at issue. Where there are only two or three major parties involved and the issues are fairly straightforward, the Examining authority might simply encourage the parties at the preliminary meeting to get together with a view to producing a statement of common ground containing agreed facts. For major applications a more formal arrangement may be necessary, particularly where several parties are expected to bring evidence of a technical nature to the examination.

67. However, the duty of Examining authority is not simply to accept the statement of common ground or to react to the evidence presented. The role of the Examining authority is to ensure that all aspects of any given matter are explored thoroughly, especially with regard to the matters fundamental to the decision, rather than seemingly accepting the statement of common ground without question.

68. Consequently, the Examining authority should probe the evidence thoroughly if their judgment or professional expertise indicates that either.

- all of the evidence necessary for a soundly reasoned decision has not been put before them or,
- that a material part of the evidence they do have has not been adequately tested'

Pre-Application Consultation

6. Before submitting the application to the IPC, Able UK Ltd (acting on behalf of AHPL) held a number of consultation meetings with NELC; these are detailed in Table 1A and 1B below.

Table 1A: Meetings Held with NELC Before the s42 consultation

Date	Present	Matters discussed
14-1-11	Neil Etherington (ABLE) Group Development Director Richard Cram (ABLE) Design Director Andrew de Frietas (NELC) Leader Tony Hunter (NELC) Chief Executive	General Introduction to the Project, the IPC process and the likely impacts

Date	Present	Matters discussed
	Marc Cole (NELC) Head of Economic Development	

Table 1B: Meetings Held with NELC Following the s42 consultation

	Present	Matters discussed	Changes made
3-4-11	Richard Cram (ABLE) Design Director Dan Moran (JMP acting for ABLE) NELC Traffic Team	Road Traffic impacts	Limited to principles
6-7-11	Richard Cram (ABLE) Design Director Kate Walker (NELC) Laura Brittain (NELC)	General Planning Issues	Limited to principles
23-5-12	Neil Etherington (ABLE) Group Development Director Dan Moran (JMP acting for ABLE) Martin Dixon (NELC) Senior Development Management Officer – and a team comprising representatives from: Economic Development, Legal, Environmental and Traffic Departments	The Draft Statement of Common Ground	Extended travel to work areas; agreed to provide and include Road Safety Audits; A18/A180 potential contribution
29-6-12	Neil Etherington (ABLE) Group Development Director Dan Moran (JMP acting for ABLE) Martin Dixon (NELC) Senior Development Management Officer – and a team comprising representatives from: Economic Development, Legal, Environmental and Traffic Departments	The Draft Statement of Common Ground	Agreed proposed changes – Air Quality to be finalised the following week. Amended Travel Plan comments and introduced 'sustainable transport' monitoring

Brief Description of the Site

The AMEP Site

7. The AMEP site, excluding the area of ecological mitigation, covers approximately 265 ha, of which approximately 120 ha is covered by existing consent for port related storage, 100 ha is existing arable land that will be developed for industrial use and 45 ha is reclaimed land from the estuary to provide a new quay. A further 48 ha of existing arable land will be converted to managed grassland to mitigate for the effects of the development on ecological receptors including birds that use the adjacent Humber Estuary SPA.

Brief Description of the Project

8. AMEP comprises a harbour development with associated land development, to serve the renewable energy sector. The harbour will comprise a quay of 1,279 m frontage, of which 1,200 m will be solid quay and 79 m will be a specialist berth. The harbour will be formed by the reclamation of intertidal and subtidal land within the Humber Estuary.
9. Associated development will include:
- dredging and land reclamation;
 - the provision of onshore facilities for the manufacture, assembly and storage of wind turbines and related items;
 - junction works to local roads and trunk roads;
 - surface water disposal arrangements.
10. Ancillary matters will include:
- the diversion of two footpaths that run along the shore of the Humber, one on the south bank and one on the north bank;
 - the conversion of a railway into a private siding;
 - the interference with rights of navigation;
 - the creation of a harbour authority;
 - a deemed licence under section 66 of the Marine and Coastal Access Act 2009;
 - the modification of public and local legislation; and
 - the compulsory acquisition of land and rights in land and powers of temporary occupation of land to allow Able to carry out and operate the above development.

Planning History of the Site

The AMEP Site

11. The terrestrial areas of the application site includes land that has the benefit of extant planning consents for port related storage and land that has temporary consent as a lay-down area during the construction of a biomass fuelled power station, refer to Table 2.

Table 2 Extant Planning Consents within the AMEP Site

Planning Ref.	Location	Details	Status
PA/2010/12 63	Land Off, Rosper Road, North Killingholme, DN40 3JP	Planning permission to construct a test foundation (12 x 12 m) and a tower (5 m diameter) with a total height of 67 m (approximately).	Granted 06/12/20 10
PA/2008/13 75	Area E, AHPF*, Rosper Road, North Killingholme, DN40 3JP	Planning permission to vary Condition 3 on application PA/2006/0039 dated 01/08/2007 (relating to low level shrubbery and hedging) to replace the words 'Within ten months of the permission...' to 'Prior to the commencement of operation...'	Granted 22/12/20 08
PA/2008/05 71	Area D1 & D2, AHPF*, Rosper Road, North Killingholme, DN40 3JP	Remove Condition 1 of planning permission 2004/1528 to make permanent the existing temporary consented use of vehicle storage and distribution, erect a single storey cabin, workshop and office building, raise ground levels to 3.1-4.0 m OD and surface with tarmac, install 3 m high electrified fencing with bird deflectors and erect 4 No. 30 m high lighting masts on land off Rosper Road.	Granted 22/12/20 08
PA/2008/14 28	Area G, AHPF*, Rosper Road, North Killingholme, DN40 3JP	Remove Condition 1 (no access to and egress from Haven Road) and Condition 2 (the use shall be discontinued before 31/12/2008) on planning permission PA/2004/1601.	Granted 19/12/20 08
PA/2008/14 01	Area B Able Humber Port Facilities, Rosper Road, North Killingholme, DN40 3JP	Planning permission to remove condition 1 on PA/2004/1528 (use to be discontinued on or before 31 December 2008) and condition 9 on PA/2002/1828 (site to have a permeable surface at all times) in connection with use of land for vehicle distribution and storage.	Granted 18/12/20 08
PA/2007/01 01	Area C, AHPF*, Rosper Road, North Killingholme, DN40 3JP	Planning permission to tarmac the 22.11 ha site for port-related external storage, to include the construction of 2 workshop buildings, a modular office building, a modular security building, construction of a wash pad wash bay and associated staff and visitor car parking and install a 3 m high security fencing, lighting towers and a sewage treatment plant.	Granted 16/01/20 08

Planning Ref.	Location	Details	Status
PA/2005/05 62	Area D, AHPF*, Rosper Road, North Killingholme, DN40 3JP	Planning permission to construct a port related storage facility including erection of various buildings, construction of car parking, erection of lighting towers and 2.4 m high electrified security fencing.	Granted 14/11/20 06
DECC 01.08.10.04/ 439C	West of the MOD Tank Farm	Construction and operation of a biomass fuelled generating station at South Killingholme, near Immingham	Granted 10/08/20 11

Summary with reference to Environmental Statement

12. The project comprises Schedule 1 development in accordance with Regulation 2(1) of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended) ('the EIA Regulations). Accordingly, the application to the IPC in respect of AMEP included an Environmental Statement (ES) and the ES referred to in this SoCG is the document accepted by the IPC on 12 January 2012.
13. In accordance with Schedule 4 of the EIA Regulations, the ES provides:

'(a) description of the likely significant effects of the development on the environment, which should cover the direct effects and any indirect, secondary, cumulative, short, medium and long- term, permanent and temporary, positive and negative effects of the development, resulting from:

(a) the existence of the development;

(b) the use of natural resources;

(c) the emission of pollutants, the creation of nuisances and the elimination of waste,

and the description by the applicant of the forecasting methods used to assess the effects on the environment.'
14. The likely significant effects of the project were initially identified by AHPL in a Scoping Report accepted by the IPC on 13 September 2010. The IPC subsequently issued their Scoping Opinion on 27 October 2010 following consultation prescribed consultees. It is agreed, nevertheless, that the Scoping Opinion does not limit the effects of the project that are to be considered and that all likely significant effects need to be assessed.
15. Chapters 1-3 of the ES provide a brief introduction to the project, the EIA process and the overall planning framework relating to the application. Since the completion of the ES, national planning policy has changed significantly with the publication of the National Planning Policy Framework. This publication, inter alia, revoked all Planning Policy Statements and Planning Policy Guidance documents.
16. Chapters 4-6 of the ES provide, respectively: a detailed description of the project; an explanation of why the project is needed and a review of the alternative sites considered by the applicant.

17. Chapters 7-24 of the ES report on the significant environmental effects of the proposed development on the south bank of the River Humber, while chapters 31-43 report on the significant effects of the proposed development on the north bank of the river. Each chapter of the ES addresses a specific environmental issue and provides:
- d. A review of the specific planning policy context relating that the topic;
 - e. A record of the existing baseline conditions;
 - f. Identification of the receptors that are likely to be affected by the proposed development;
 - g. An assessment of the impact of the development alone on the receptors taking into account baseline conditions;
 - h. An assessment of the impact of the development cumulatively with the impacts of other projects that are not yet implemented but for which planning permission has been granted, or other projects for which an application for consent has been submitted.
 - i. Proposed mitigation measures where the impact of the development when added to the baseline is sufficient to have an effect on a receptor that is significant.
18. 'Baseline' means the assessment of the current situation at each location. 'Impact' means the impact of the construction and operation of AMEP and the compensation site. 'Receptor' is any component of the environment (population, flora, fauna, water, air, soil, geology, geomorphology, heritage and landscape), whether specifically protected by statute or not. 'Mitigation' means the measures that are proposed in the ES to reduce the impacts to a lower level than would otherwise occur.
19. For each chapter of the ES, the three agencies have identified the issues relevant to their statutory duties in Table 4 below. For chapters marked 'no interest', then that particular agency has no relevant statutory duty for any of the issues addressed in that chapter.
20. The structure of the SoCG that follows then considers each relevant chapter of the ES in turn.

SECTION 2: STATEMENT OF COMMON GROUND BETWEEN AHPL AND NORTH EAST LINCOLNSHIRE COUNCIL

Introduction

21. This Section of the SoCG reviews those chapters that are relevant to NELC.

Chapter 15 Traffic & Transport

General

22. Chapter 15 summarises the direct impacts resulting from road traffic generated by AMEP based on a project specific Transport Assessment (TA) included in Annex 15.1 of the Environmental Statement (ES). The TA includes the impacts of other projects which have been consented but that have not, at this time, been implemented. Thereby, the traffic assessment of AMEP, in-combination with other projects, has been incorporated into the assessment.

Baseline

23. It is agreed that the baseline traffic surveys listed in Section 4 of the TA provide a sound basis for the assessment of existing traffic flows.

Assessment Methodology

24. It is agreed that the methodology (Section 15.3 of ES) used to assess transport impacts is appropriate and has had regard to local planning policy and the national policy that existed at the time the application was submitted, including PPS 13 (subsequently superseded by NPPF).
25. It is also noted that whilst there remains the (increasingly) likely possibility that the new A160/A180 scheme will receive the necessary public funding the applicant has made the pragmatic assumption, within the EIA, that the proposed new scheme was not in place. It is also noted and agreed that the 'Gravity Model' has been used and that the analysis deals separately with both the construction and operational phases of the development. It is acknowledged that assumptions with regard to job numbers are based on the best and most available data to hand which, furthermore, is based on the Applicant's extensive knowledge and experience in liaising with the sector. Equally it is acknowledged that the OWT sector itself is embryonic and that existing plans are subject to change.
26. A further Sensitivity Test was undertaken, which distributed a greater percentage of trips to and from the Grimsby area, and less from the M18 (west) and showed that the change in impact was not significant on the A1173 junctions in North East Lincolnshire. The improvement scheme originally proposed for the A1173/north Moss Lane/Kiln Lane remains adequate as mitigation.
27. NELC agrees that the criteria used, which conforms to the model Employment Densities: A Full Guide (English Partnerships 2001), is the most appropriate.

Clarification of Shift System Assumptions

28. It is agreed that staggered shift arrival and departure times will reduce the impact on the highway network and, crucially, enable employees to arrive/depart on time. It is also understood that such an arrangement is in the best interests of both the Landlord and the Tenants operating on the site - as well as in mitigating traffic impacts.
29. The Framework Travel Plan (FTP) covers the trip generation for the whole site and Occupier Travel Plans will have appropriate trip generation targets as a proportion of the target for the whole site, which will need to be met and will be subject to review. The measures within the Occupier Travel Plans may be adapted as necessary, should targets not be met and NELC will be engaged in this on-going process. In the unlikely event that targets are consistently not met, further mitigation will be considered as necessary and in consultation with the relevant parties, including NELC.

Trip Distribution

30. The employment and building schedule, detailed in Annex 4.3 of the ES, details employee trip generation. From the schedule the predicted number of employees per building and the shift patterns were taken. NELC agrees with the trip generation data as set out in Section 15.3 the ES and the distribution modelling presented in Appendix M of TA.
31. It is agreed that 50 per cent of all road movements from a westerly direction are a product of that model – noting that the total from Grimsby and west of Grimsby is almost 25 per cent. See also the Sensitivity Test (above). Following the sensitivity test 39.2% (from the west – M180) was identified and 34.8% specifically from the A180 south. NELC agrees that there are no further impacts with this distribution.

Junction Capacity Assessment

32. It is agreed that the DfT guidance (2007) on Transport Assessment and the qualifying criteria for junction assessment (30 or more two way MEP vehicle trips) is appropriate and was previously agreed by both NLC and the Highways Agency (HA) – referred to in section 15.3.5.
33. NELC has reviewed the junction capacity assessments within its district and agree that the junctions have been modelled correctly.

Stage 1 Road Safety Audits (RSA)

34. The analysis identified that traffic created by AMEP would have a negative impact on road safety particularly as there are no highway improvement schemes that are proposed as mitigation for many previous planning approvals. However, once mitigation proposals (junction improvements set out in paragraph 15.8.9 to 15.8.23), have been put into place *"the scenario will be no worse off than the 'base + committed developments' scenario, and therefore road safety should not be compromised."*
35. NELC agrees with the road safety analysis as set out in paragraphs 15.6.60 and 15.6.61 and Section 15.8 of the Environmental Statement.

36. Whilst it was originally understood (with agreement of both NLC and HA) that RSAs were not required at this stage the applicant commissioned RSAs for the three relevant junctions where mitigation is proposed. The RSAs have been reviewed by NELC.

Proposed A180 Improvement Scheme

37. NELC recognises that the Traffic Assessment excluded reference to the proposed scheme – a factor acknowledged by NELC's Simon Moss (email 19th May 2011): *"The TA has helped us to understand why, in your view, there needs to be no detailed consideration of any potential impact of our A18 - A180 link, as it is, as yet, simply a bid being submitted for consideration by DfT"*.

Framework Travel Plan

38. Both parties agree that implementation of detailed travel plans, by tenants, which accord with the FTP will be a necessary requirement of any Development Consent Order.
39. It is acknowledged that FTPs evolve over time to best suit the needs of the users of the development and NELC welcomes the fact that monitoring will ensure continual review and amendment as necessary. NELC, as previously stated, will be involved in the review process which will be undertaken on an annual basis.
40. Each of the Occupier Travel Plans will have trip generation targets as an agreed proportion of the overall site trip generation target.
41. A formal review and audit of the FTP will be instigated and agreed on a three yearly basis.
42. The FTP will recognise the development and implementation of the 'International Gateways: Area Wide Travel Plan'.
43. Whilst end-users will have ultimate responsibility for their own Travel Plan initiatives – and it is recognised that is in their best corporate and operational interest – the applicant has the key co-ordinating role in the FTP's overall implementation.

Junction Improvements/Section 106 Agreements

44. A1173/North Moss Lane/Kiln Lane – the agreed mitigation scheme, estimated at between £42,000 (JMP) and £50,000 (NELC) will be paid by the applicant (see drawing no. NEA1114/06 Rev A).
45. A18/A180 Link Road – the applicant has been made aware that it has been named as a potential funder within the (September 2011) 'Local Authority Major Schemes Best and Final Funding Bid'. This is outwith the AMEP application and is the subject of separate discussions

Cycleway Upgrade

46. It is recognised by both parties that accessing the site by either walking or cycling presents a number of challenges – not least in creating an actual demand for use. It is agreed that appropriate survey work will be undertaken and in conjunction with both NELC and NLC.
47. The applicant - on the basis of need – will review data as it emerges. This process will be overseen by the Travel Plan Co-ordinator in conjunction with the occupiers and the FTP review group (of which NELC will be a member).

Routing Agreement

48. It is agreed that both parties are committed to seek to ensure that any HGV traffic (and associated deliveries) avoid the A1173. This will be monitored through both the construction and operational Traffic Management Plans.
49. *Statement of issues not yet agreed.*
50. None.

Chapter 17 Air Quality

General

51. AMEP is composed of several elements with the potential to impact on air quality, and as such the approach adopted in Chapter 17 allows consideration of impacts from the development as a whole, and also cumulative impacts.

Assessment Methodology

52. It is agreed that the baseline (ES Section 17.5) provides a sound basis for the assessment of existing air quality. It has reviewed impacts where traffic increases by > 5% and utilised the ADMS-Roads modelling to detail dispersions. Within the modeling undertaken for road traffic sources, hourly variable baseline data has been incorporated in the model in order to allow correct calculation of the reaction between nitric oxide (NO) and nitrogen dioxide (NO₂). The analysis has also used existing AQMA monitoring sites at both North and South Killingholme. (see Table 17.5).
53. The Applicant has agreed that it would be useful exercise to extend the field of study to encompass the Immingham AQMA monitoring station (Kings Road/Pelham Road roundabout) and this data will be shared with NELC. It is not anticipated that this will highlight any variation from the previous findings and that there will be no adverse effect.

Chapter 21 Socio-Economics

General

54. Chapter 21 details the socio-economic impacts that will be generated by the AMEP development and also the methodology used in their determination.
55. NELC recognise the very significant nature of the proposed development and in particular the aspiration that it encompasses in respect of the on-going, and much needed, development of the South Humber Bank. The project would have a central role in

strengthening the area's offer in terms of renewable offshore energy activities and in turn would provide very significant employment opportunities and create opportunities for new and existing businesses involved in the supply chain. Furthermore the attraction of Offshore Wind Turbine Manufacturers (and their Tier 1 supply chain) would complement and reinforce the existing (and successful) Operations and Maintenance bases established within Grimsby and the surrounding area. In short the development represents a singular opportunity to deliver transformational change to the local economy and to establish a large manufacturing cluster of international significance.

56. In principle therefore NELC is a strong and committed supporter of the proposed development.

Assessment Methodology

57. NELC agrees that the assessment process and modelling therein is appropriate for the proposed development and provides as robust an evidence base as can be reasonably expected given the emerging nature of the sectors that are covered. NELC also welcome the fact the analysis extends beyond the 'headline' impacts of job creation and Gross Added Value and includes useful reviews of housing, health and educational aspects.

NELC Engagement post-approval

58. NELC welcomes the applicant's commitment for on-going liaison with both NLC and NELC as the project develops. NELC also welcomes the applicants own proposal to develop a procurement strategy for the construction phase to increase the proportion of local business within that supply chain.
59. NELC also notes and accepts the role that it will play, post approval, in assisting the developer to market the location and to support actual and potential occupiers in terms of awareness, education and training and opportunities for local business. Indeed NELC is well placed to assist in this regard and has extensive knowledge of the sector.

Statement of issues not yet agreed

60. None.