

Mr Alex Codd
City Planning Manager
Development Management
Hull City Council
Kingston House
Bond Street
KINGSTON UPON HULL
HU1 3ER

Please ask for: Gerry Carpenter

Tel:

Email:

Your ref: DM/AC

Our ref: NPCU/CHR/V2004/70056

Date: 17 July 2012

Dear Sir

**Green Port, Hull: Application Nos 31772, 31772B, 31772C, 31772D and 26841C
Reference to the Secretary of State under Regulation 62 of the Conservation of
Habitats and Species Regulations 2010 (Habitats Regulations 2010)**

1. I am directed by the Secretary of State to say that consideration has been given to the notification set out in your letter dated 14 May 2012 of the applications relating to the above development ("the Green Port Development") which are likely to have a significant effect on the Humber Estuary European Marine site ("the site") and are not directly connected with or necessary to the management of that site.

The proposal

2. The development proposed by Associated British Ports (ABP) ("the applicant") is the manufacture, assembly, testing and shipment of wind turbines for the offshore wind power industry, helicopter landing site, reclamation of 7.5 hectares of the Humber Estuary, infilling of 6.85 hectares of the Alexandra Dock, the construction of roll on/ roll off ramps within the Dock and associated works (the "Green Port Development"). The proposal would have direct effects on the site which is designated for its nature conservation importance at an international and national level as a Special Protection Area (SPA), Special Area of Conservation (SAC), Ramsar site and Site of Special Scientific Interest (SSSI).

3. As the proposed development is not directly connected with or necessary for the management of the site and is likely to significantly affect it, the Council and the Marine Management Organisation have as required by regulation 61 of the 2010 Regulations made an Appropriate Assessment of the implications of the proposal for the site in view of its conservation objectives. Whilst a number of the impacts would be addressed by mitigation measures, the proposal would have an adverse impact

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on the integrity of the site due to the loss of 7.5 hectares of habitat and disturbance and displaced birds from the construction of the marine quay, which cannot be mitigated by conditions and obligations.

4. The Secretary of State is satisfied that the Appropriate Assessment has been carried out in accordance with the Habitats Regulations 2010 and the Environment Agency and Natural England are also satisfied as to this.

Secretary of State's consideration

Alternative Solutions

5. The Secretary of State has considered the detailed assessment of alternative solutions submitted by the applicant. These included reconfiguring the Green Port Development, undertaking the project elsewhere within the Port of Hull, carrying out the project in alternative North Sea ports on the European mainland and undertaking the project in other UK ports. He notes that there are no solutions that would have no effect or a lesser effect than the proposal on the site's integrity and that the proposed Green Port Development is the least damaging for habitats, species and the integrity of the site.

Imperative Reasons of Overriding Public Interest (IROPI)

6. As there is no alternative solution, the Secretary of State has considered the applicant's case for the Green Port Development to proceed on the grounds of Imperative Reasons of Overriding Public Interest. Although there is no alternative solution, the applicant states that:

- There are *imperative* reasons for the project to go ahead, to help meet the Government's renewable energy target of providing 15% of energy requirements from renewable sources by 2020;
- There is an *overriding* need for the project to go ahead, taking into account that the compensation at Chowder Ness and Alkborough Flats is in place and functioning, which would be delivered through the proposed Section 106 Agreement and;
- There are strong *public interests* for the project to go ahead, particularly since it would create up to 1600 additional jobs in the area which is recognised as one of the most deprived local authority districts in England.

7. The Secretary of State is satisfied that there is a strong case for the Green Port Development to proceed on the grounds of Imperative Reasons of Overriding Public Interest.

Compensatory Measures

8. Where, in the absence of alternatives, the importance of the development is judged, to outweigh the harm to "the site", compensatory measures must be taken to ensure that the overall coherence of the network of SPAs and SACs comprising "the site" is protected.

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9. The Secretary of State has considered the applicant's detailed statements which provide details of the habitats at the nearby Chowder Ness and Alkborough Flats as compensation for the proposal. He notes that compensatory measures would be provided in comparable proportions to the habitats for the species lost by the Green Port Development and that the proposed Section 106 Agreement would deliver the compensation package and a Habitats Management Agreement. Further compensation would also be provided by the parties entering into a Habitats Management Agreement relating to the land in ABP's ownership at Alkborough Flats.

10. The compensatory measures have been considered by the City Council, the Environment Agency, Natural England, and the Marine Management Organisation, who all concluded that they were satisfactory. Natural England considers that the proposed compensation package associated with the Green Port Development, which includes compensation for SAC habitat loss and impacts on SPA interest features, is adequate in terms of Regulation 66 of the Habitats Regulations and will secure the future nature conservation interest on the two sites in the short, medium and long term. The Secretary of State considers that the applicant has provided satisfactory compensation measures to ensure that the coherence of the network of SPAs and SACs comprising the site.

Conclusion and Decision

11. The Secretary of State has considered all information before him in relation to the notification and considers that a strong case has been made to demonstrate that there is no alternative solution and that there are Imperative Reasons of Overriding Public Interest for the development should the Council agree to it. He considers that in the event of such agreement satisfactory compensation measures will be in place and that these will be delivered through the Section 106 Agreement and will ensure the overall coherence of the network of SPAs and SACs comprising "the site" is protected. In the circumstances, the Secretary of State has no objection to Hull City Council agreeing to the proposed development should it so decide.

12. The Article 25 Direction issued pursuant to the Secretary of State's letter of 30 May 2012 is hereby withdrawn.

13. I am sending a copy of this letter to the Marine Management Organisation.

Yours faithfully

A solid black rectangular box used to redact the signature of the Secretary of State.

Authorised by the Secretary of State
to sign in that behalf

