

Dear Sirs,

I enclose a document with E.ON's comments on the applicant's responses to the first set of written questions raised by the Examination Authority. I understand that the deadline for E.ON's comments on the written and relevant representations has been extended to Friday 3 August.

At this stage, E.ON are not proposing that there will be a requirement for cross examination at the compulsory acquisition hearing or the issue specific hearings and they will rely on inquisitorial questioning. I trust, however, that if the applicant or others seek to cross examine my client's witnesses then E.ON will be permitted the opportunity to cross examine in return.

With regard to the procedure to be adopted at the compulsory acquisition hearing, I would suggest that for the smooth running of the hearing and in order to ensure that all parties are accorded time to be heard, that PINS set out allotted time slots for each party.

Regards

Julia Dixon
Senior Associate

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

THE ABLE MARINE ENERGY PARK DEVELOPMENT CONSENT ORDER 2012
(PINS REFERENCE NUMBER: TR030001)

COMMENTS ON THE APPLICANT'S RESPONSES TO THE EXAMINING AUTHORITY'S
FIRST SET OF WRITTEN QUESTIONS (QUESTIONS 35 AND 36)

ON BEHALF OF

E.ON UK PLC

(UNIQUE REFERENCE NUMBER: XXXXXXXXXX)

July 2012

1 INTRODUCTION

- 1.1 On 30 March 2012, E.ON UK plc (“E.ON”), owner and operator of Killingholme Power Station and a Statutory Undertaker in that respect, submitted Relevant Representations in respect of the Able Marine Energy Park (“AMEP”) application currently being considered by the Planning Inspectorate (the “Examining Authority”). On 29 June 2012, E.ON submitted a more detailed Written Representation to the Examining Authority, expanding upon its concerns about the proposals.
- 1.2 This submission by E.ON addresses the applicant’s responses to questions 35 and 36 of the Examining Authority’s first set of written questions.
- 1.3 E.ON is continuing to co-operate with the applicant to seek to resolve its concerns regarding the potential significant effect that the proposed AMEP development could have upon the operation of Killingholme Power Station, particularly in respect of the cooling water system which is an essential element of the operation of the power station.

2 QUESTION 35

The Question

“During the capital dredge who will be responsible for monitoring any build up of silt at the adjoining berths and the intakes/outfalls used by E.ON and Centrica?”

The Applicant’s Response

- 35.1 Adjacent berths will be subject to an existing survey regime to monitor sedimentation within the berths. The applicant does not anticipate any need to change the intensity of that survey effort and it would remain the duty of the berth operator to undertake those surveys.
- 35.2 Schedule 9, Part 1 of the draft DCO provides for a post-construction plan for the monitoring of indirect sediment transport and geomorphological effects to be prepared by the applicant and approved by Natural England. This would include monitoring of the intertidal areas to the north and south of the quay by the applicant.”

E.ON’s comments on the Applicant’s Response to Question 35

- 2.1 E.ON is unclear about the response provided at paragraph 35.1. No dredging has been necessary at Killingholme since the power station was constructed and, in addition, E.ON is not aware of who the applicant is referring to by its use of the term, the “berth operator”. E.ON is awaiting clarification from Able on this point. However,

E.ON would expect the applicant to monitor both before, and up to six months after, construction - as a minimum. E.ON had been led to believe, based on discussions with the applicant, that this was to be the case.

3 **QUESTION 36**

The Question

“In the long term how will the predicted build up of silt inside the nearby berths and at the intakes/outfalls of the E.ON and Centrica sites be managed?”

The Applicant’s Response

“36.1 Sedimentation at nearby berths will continue to be managed by the berth operators. Whilst no increased maintenance dredging is predicted, the applicant has proposed Heads of Terms to the operators to protect them against any additional costs arising from those operations where those additional costs are attributable to AMEP.

36.2 The principal risk to the E.ON and Centrica infrastructure is to the outfalls. It is proposed to divert the outfalls and this would negate the need for any management of the intertidal area to the north of the quay. The Centrica outfall is at less risk and it may be possible to undertake maintenance dredging in the vicinity of the [sic] that outfall using a plough dredger as detailed in the dredging strategy. Alternative solutions are still being explored with the operators of both outfalls that might allow their infrastructure to remain in-situ, subject to separate consents being obtained.”

E.ON’s comments on the Applicant’s Response to Question 36

- 3.1 The same query regarding the definition of “berth operator” applies to the response at paragraph 36.1 as applied to the response at paragraph 35.1. Is the applicant proposing to be the “berth operator”?
- 3.2 E.ON has no record of receiving copies of the “Heads of Terms” referred to in the applicant’s response at paragraph 36.1 and requests a copy.
- 3.3 The applicant’s “Review of Risks to the E.ON Inlet and Outfall During Construction & Maintenance of the AMEP Quay (June 2012)” (included as Appendix 10 to E.ON’s Written Representation) was undertaken on the basis of the current locations of the intakes and outfalls, with a need for monitoring and management of sediment through dredging.

- 3.4 One possible position for the relocated E.ON outfall has been considered in the applicant's Supplementary Report Ex 9.7 (Assessment of the Effects of Relocation of the E.ON and Centrica Outfalls on Thermal Recirculation). The relocated position in EX 9.7 would also need to be considered in the context of ships potentially berthing close to the outfall and affecting dispersion conditions. The importance of the Cooling Water system to the operation of Killingholme Power Station has already been highlighted earlier in these submissions at paragraph 1.3. Accordingly, any movement of E.ON's intake or outfall pipe must be subject to the agreement of E.ON.
- 3.5 If the E.ON outfall were to be moved, a range of possible new locations would need to be assessed, including outfall locations further offshore. Additionally, a variation to the E.ON Killingholme Environmental Permit would be required to move the outfall location. This would have to be negotiated with the Environment Agency, which may take some time. Modelling would have to be presented to the Environment Agency and a Habitats Assessment would probably be required. Effectively it would be the Environment Agency that confirms whether or not a new outfall location would be acceptable as it would be the Environment Agency granting the Environmental Permit. E.ON wishes to note that the applicant has the responsibility for carrying out any additional modelling work required as part of any proposals to move the intake or outfall locations.
- 3.6 E.ON also notes concerns raised by the Marine Management Organisation (MMO) as well as comments made by the Environment Agency in relation to the uncertainty around any new outfall structure, including the need for a Habitats Regulations Assessment and the MMO's requirement for the construction of the outfall to be included within the DCO as part of the marine licensing.
- 3.7 Further information and clarity is needed from the applicant in order that this issue can be taken forward.
- 3.8 In relation to the maintenance dredging and Supplementary Report Ex 8.6 (Assessment of Maintenance Dredging Requirements), this acknowledges that sedimentation to the northwest of the AMEP development is likely to lead to burial of the E.ON outfall and possibly of the Centrica outfall too. For the purposes of the report, Assessment of Maintenance Dredging Requirements, the report assumes both the E.ON and Centrica outfalls will be relocated, so there will be no requirement for maintenance dredging in the vicinity of the current outfall locations.
- 3.9 E.ON therefore remains concerned about the likelihood of sediment build up and the likely need for maintenance dredging in relation to the current locations of intake and

outfall and E.ON remains concerned regarding proposals for the relocation of its outfall.

- 3.10 As referred to earlier, E.ON is actively seeking discussions with the applicant in order to address its concerns.

Squire Sanders (UK) LLP
26 July 2012