

The Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

**The Able Marine Energy Park Development Consent Order**

**Planning Inspectorate Reference: TR030001**

**Written Representation of C.RO Ports Killingholme Limited (Interested Party reference:  
10015532)**

29 June 2012

- 16.3 C.RO has considerable concerns about the operational impacts on its future use of the Railway if compulsory acquisition proceeds.

Government and Network Rail policy on rail freight

- 16.4 Before setting out the arguments against Able's proposed acquisition of the Railway, it is important to consider the policy and factual background that underlies the need to maintain and develop the rail freight capacity of the Network. This is in the context of a proposal that seeks to remove infrastructure from the Network that has an important place in allowing freight to be transported by rail. The Railway would also have an important role in developing the capacity of the Network to carry freight by rail. As matters stand, there are no proposals to accommodate or protect the future rail freight needs of C.RO in so far as they may be affected by AMEP. There is no, or at least insufficient, clarity, and no detail, about how the Railway (if acquired by Able) would be protected so that rail freight associated with C.RO is accommodated and allowed to grow.

- 16.5 Able's proposal to acquire the Railway is inconsistent with the thrust and direction of Government policy, all of which in recent years has aimed to increase the modal share of rail freight transport and enhance the Network's ability to transport freight effectively by rail. These policies accentuate the need to maintain rail connections to existing ports. It also conflicts with the legislative regime relating to railways.

- 16.6 These policy documents include:

16.6.1 *Delivering a Sustainable Railway* (Department for Transport (July 2007)) - This report states that the long term ambition is for a railway that "can handle double today's level of freight and passenger travel" and that the Government was confident "that rail freight will continue to grow over the next 10 years". The document cites the Eddington Study<sup>3</sup>, and states that "international links via ports...showing signs of congestion and unreliability" are "crucial to the productivity and competitiveness of the economy". The Secretary of State noted that the railway is well placed to serve such markets;

16.6.2 *Strategic Business Plan update, Supporting Documentation, Strategic Freight Network* (Network Rail (April 2008)) - In this update Network Rail asserts that it is a

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<sup>3</sup> *The Eddington Transport Study*, Department for Transport, 2006.

reasonable assumption that there will be a need to carry an increasing level of imported goods by rail between expanded ports and conurbations;

- 16.6.3 *Britain's Transport Infrastructure Strategic Rail Freight Network: the Longer Term Vision* (Department for Transport (September 2009)) - Increased freight capacity and the protection of strategic freight capacity are stated as key elements of the Government's longer term vision. It follows from this that, although the Railway on the Able site would not be defined as part of the strategic freight network, that privatising the Railway would be inconsistent with the implicit Government objective of achieving a more developed and fully functioning Network able to transport freight effectively;
- 16.6.4 *Value and Importance of Rail Freight* (July 2010) - Network Rail states in the summary to this document that "enabling rail freight to expand and thrive is a key responsibility of the rail industry, especially if rail is to play its part in supporting economic recovery and long term sustainable growth". Network Rail "forecast that rail freight could increase by as much as 140% by 2030" and that "even the most conservative scenario shows rail freight growing strongly". Network Rail's vision is to increase the modal share of rail and to take freight off Britain's roads, improving the economy, our quality of life and substantially reducing carbon emissions". Moreover in the main document Network Rail asserts that the UK Government recognises that rail freight "can have significant environmental and social benefits" and that accordingly the Government encourages its use with two key grants, which provide capital and revenue support;
- 16.6.5 *Planning ahead: Control Period 5 and beyond - Britain's railway from 2014* (Network Rail, Association of Train Operating Companies, Rail Freight Operators' Association) - This document confirms that demand for rail freight services is set to rise due to a return to economic growth, increasingly congested roads and skies, and a commitment that the UK cut its carbon emissions. The authors' vision includes "rail connections to terminals and distribution centres, making rail a natural choice and increased market share from 11.5 per cent to 20 per cent of surface freight"; and
- 16.6.6 *The National Policy Statement for Ports* (Department for Transport (January 2012)) - The National Policy Statement ("NPS") for Ports requires the planning system to objectively considers the modal share of traffic entering and leaving ports in the context of external congestion and environmental costs. It states that "broadly

speaking, rail and coastal or inland shipping should be encouraged over road transport, where cost effective." The Secretary of State will be aware of the provisions of Section 104 of the Planning Act 2008, which require that in deciding the Application the Secretary of State must have regard to "a relevant national policy statement". That will involve having regard to the extent to which elements of a proposed development would frustrate, or impede, or conflict, with the requirements of a relevant NPS, including in relation to other existing nationally significant infrastructure. Further, the extent to which AMEP will impede C.RO's use of the Railway is an important and relevant matter, to which the Secretary of State must also have regard under Section 104(2)(d) of the Planning Act 2008.

- 16.7 These policy documents illustrate the centrality of rail freight to ports and intermodal traffic, and the Government's focus on increasing its modal share. Despite the clear policy direction from the Government, Able is proposing that a freight railway line, for which connection agreements are in place for the purpose of moving freight by rail, and for which there will be increased demand from other users going forward, is to be removed from the Network to accommodate the requirements of one developer. Able has not even demonstrated a clear need to use that Railway. Similarly, it has not demonstrated the way in which it can or will affect the Railway. This is clearly contrary to the thrust of Government policy.

Able's purported justification

- 16.8 At paragraph 5.1.2 in the Statement of Reasons submitted with its application for AMEP, Able states that the Railway is to be acquired in order to allow the site to be operated as a whole. However, Able does not assert that (or explain why) it needs to use the Railway as part of AMEP. Similarly, it does not (or does not properly) explain why the presence of the Railway prevents the operation of AMEP as a whole or why, whilst still operating as a railway, the change in ownership so improves the operational characteristics of AMEP.
- 16.9 The Application does not include any proposals for railway infrastructure at AMEP. It is not clear for what purpose the Railway is required to serve AMEP, and how it could do in the absence of the necessary infrastructure, e.g. sidings, gantries, cranes, etc. If such infrastructure is proposed, it should be assessed.
- 16.10 It has also been suggested to C.RO that it should agree to limit its use of the Railway to two trains per day (see open letter at Appendix 3). No explanation of the need to do so has been given by Able, particularly as Able appears not to have a need for the Railway for AMEP