

Natural England's comments in respect of the draft DCO/DML (version dated 9 October 2012)

Natural England has the following comments on the draft DCO/DML:

Interpretation:

- *“the compensation environmental management and monitoring plan means the plan for environmental management and monitoring above the high water mark on the north bank of the River Humber referred to in paragraph 16 of Schedule 11”.*

Natural England assumes this should refer to *paragraph 17* and the compensation EMMP will include land *below* the high water mark once the site is flooded. This description should be amended.

- *“an environmental management and monitoring plan” means all or any of the compensation environmental management and monitoring plan, the marine environmental and monitoring plan or the terrestrial environmental management and monitoring plan;*

There is a minor error which should be corrected as follows: the marine environmental *management* and monitoring plan

Requirement 17:

- Parts 1, 2 and 3 state *“the.....environmental management and monitoring plan for that stage”*. It is not considered that any of the EMMPs will relate to a specific “stage” of development, but are of general application. It is therefore unclear why Requirement 17 is worded in this way. We would welcome clarification on this point, or an amendment to the requirement.
- Natural England advises that the words *“reflecting the survey results and ecological mitigation and enhancement measures included in the environmental statement”* should either be deleted or amended to include *“and further information”* after the word *“statement”*. This reflects the simple fact that the EMMPs take into account more recent information that was not included in the original environmental statement.
- Notwithstanding the comments above, Natural England is generally happy with the wording of Requirement 17, however this should not be taken as an indication that we consider the obligations in the EMMPs can be finalised later. At the very least the key details, including the objectives, need to be set down so that there can be consideration of them as part of the examination process.

Requirement 20:

As set out in our written representations dated 29 June 2012, artificial lighting can affect birds' usage of the SPA and Ramsar site and we advised that maximum light levels and measures to avoid light overspill should be included in the DCO requirements in order to avoid such impacts. We welcome the amended text in requirement 20 which now states that Natural England will be consulted on the details of external lighting; however this only covers the construction phase. Natural England advises that a similar requirement is provided to cover the operational phase.

Requirement 38:

Natural England has had sight of several varying proposals detailing restrictions for noise levels and container storage heights in relation to North Killingholme Haven Pits and Mitigation Area A. The latest of these was received late on 26 October 2012. Unfortunately Natural England has not had time to consider this proposal and therefore the precise wording of requirement 38 is still to be agreed. Our advice is that requirement 38 should cover the following:

- Construction and operation
- Must include maximum noise levels and be measured at the boundary of North Killingholme Haven Pits and the boundary of the core area of Mitigation Area A
- No storage should take place directly adjacent to North Killingholme Haven Pits; a buffer is required unless the materials will not be visible from the Pits
- No storage above 10m height should take place in the 60m operational buffer strip adjacent to Mitigation Area 'A'
- A noise monitoring programme is required and this should be detailed within the terrestrial EMMP

Deemed Marine Licence:

Natural England advises that an additional condition is added to 36, i.e. 36 (2) that states "Percussive piling shall only be carried out in accordance with the cold weather piling restriction strategy".

Draft Legal Agreement:

Natural England has only recently been sent a series of additional documents (received 15 October) which includes a draft legal agreement for the compensation proposals. We are currently reviewing this document and will provide our comments as soon as practicably possible.

Natural England
October 2012