

Mr Robert Upton  
Lead Member, Examining Authority,  
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Our reference BJK/0956072/O15557096.1/SAMF

Your reference TR030001

4 October 2012

Dear Mr Upton

**Application for Development Consent by Able for a Proposed Marine Energy Park  
The Infrastructure Planning (Examination Procedure) Rules 2010  
Rule 17 - Further Information**

I write in response to your letter of the 24 September 2012 in which you make a request for further information under Rule 17 of the Examination Procedure Rules 2010.

I must say at the outset that we were rather surprised by both your question and its purpose and are bound to query whether it actually falls within the remit of a Rule 17 request for information. Be that as it may, your letter asks ABP to confirm, in the context of the draft document "*A Plan for the Humber*" produced by the Humber Local Economic Partnership, "that it supports the *objectives* set out in the consultation draft issued in July 2012, and specifically the statement on page 7, that:-

*"The Humber's location and land resources on both banks offer unrivalled competitive assets for offshore wind. We intend to capitalise on these to create a 'super cluster' through the formation of a new industry sector in the UK for the first time in 40 years."*

It is important to note at the outset three specific points:-

First, the passage that you have cited does not in fact set out any "objectives". The first sentence is a description. The second sets out an intention to create something which is not defined either within the paragraph or elsewhere in the document.

Second, it follows, therefore, that it is even more important than usual that this version of the Plan be considered as a whole. It is inappropriate to focus exclusively on any one passage – still less on part only of a paragraph.

Thirdly, it is important to recognise that this passage, even though descriptive in form, is aspirational and promotional in substance.

Turning to the LEP Plan itself there are a number of significant points that I believe we should draw to your attention:-

1. The LEP Plan recognises that the Humber Estuary is a *"unique natural asset"*<sup>1</sup>. This is of fundamental importance. All development must respect the quality of the environment and natural resources. It must comply with the strict legal protection of European and domestic law. Compliance with both the procedural and substantive obligations of law and policy for environmental protection is, therefore, not only an obligation in itself in the long term interests of the LEP area, but also a necessary pre-requisite to development projects which are achievable. The Able proposals have failed to meet both procedural and substantive requirements of European and domestic law and if allowed to proceed would distort the level playing of legal and environmental compliance imposed upon the UK port industry and indeed the developers of other major UK infrastructure proposals.
2. The LEP Plan places much emphasis on the accessibility of the Humber. It states that - *"to realise the true potential of the Estuary we must improve its overall competitiveness in terms of.....accessibility."*<sup>2</sup> The LEP Plan says of deficiencies in road and rail infrastructure that these *"constraints limit capacity for movement and therefore investment, so resolving them will be crucial for growth"*<sup>3</sup>. This statement reinforces the objections to Able's proposals which are inconsistent with the objectives of the LEP Plan which supports (i) the Killingholme Loop and (ii) protection of existing rail access to service sites (see Mr Geldard's oral and written evidence).
3. The LEP emphasis on accessibility also reinforces the objections made by ABP and Royal Mail on road traffic grounds (see Mr Tucker's evidence).
4. The LEP supports the role of the Humber as an area of excellence for renewable energy. This, however, covers much more than offshore wind. In the sentence following that quoted by your question<sup>4</sup>, the LEP Plan identifies biomass power generation as an immediate opportunity. The Western Deepwater Jetty, which ABP is seeking to construct on land which Able proposes to acquire compulsorily, will together with the construction of HIT 3 make possible the importation through the Port of Immingham of large volumes of biomass fuel stocks for power stations in the surrounding area. Able's proposed CPO would frustrate the realisation of that important opportunity.
5. As to offshore wind – ABP is already about to undertake this kind of development at Green Port Hull with its identified customer, Siemens. In addition, the Port of Grimsby already services the offshore wind industry<sup>5</sup> as noted in the Plan – *"Grimsby is already well established as a major operations and maintenance hub with further gross potential."*
6. The LEP Plan naturally devotes much space to new activities. That does not indicate that existing activities are no longer equally important. The Plan expressly recognises at page 9 that - *"Other key sector strengths"* should be built on and indeed lists a number of them. ABP already serves those sectors both directly and indirectly. It seeks to continue to do so. Able's proposals would seriously harm those objectives and the carrying on of its functions. The Western Deepwater Jetty will, as the Panel has already been informed, be used by a current liquid bulks customer at the Port of Immingham. Meeting the increasing need of an existing customer, must of course be of importance equal to or greater than meeting the needs of "potential" new customers who may or may not take up opportunities at AMEP – should that project come forward.

Turning now to the status of the LEP Plan, I hardly need point out that the Plan is not a statutory development plan. It has not been endorsed by Government. It cannot, therefore, surpass important objectives of Government policy which it does not even mention. For example, security of energy supply is of national importance and so acknowledged in Government policy. The development of the

<sup>1</sup> See page 7

<sup>2</sup> See page 7

<sup>3</sup> See page 11

<sup>4</sup> At the foot of page 7

<sup>5</sup> See page 8

Western Deepwater Jetty (which would connect directly with the Government Pipeline Storage System) which Able's proposals would prevent, has a key role to play in the achievement of this national objective.

Whilst we note the concerns expressed in the draft LEP with regard to "*disproportionate enforcement*"<sup>6</sup>, for its own part, ABP deprecates the disregard of the planning system shown by Able in the way in which it has pursued its application for consent – for example, its failure to bring to the Examination a properly worked up proposal that had been subject to appropriate consultation, consistent with the "*front loading*" rationale behind the DCO process as contained in the 2008 Act, and in compliance with the obligations of the EIA Directive 2011/92/EU and the Habitats Directive 91/43/EC.

In conclusion, ABP supports the development of the Humber as a "super cluster" in the sense of it being an area of excellence for all kinds of renewable energy – but this is just one of many important objectives for the Humber – all of which are subject to the legal regimes designed to protect the area's critical natural resources. Neither ABP, nor indeed the LEP Plan if properly understood, can view the concept of a "super cluster" as being more important than maintaining, protecting and developing the Humber's existing strengths. Further in this context, I should point out that offshore wind is not the only form of renewable energy and Able's proposals are not the only way of achieving an area of excellence in offshore wind. Accordingly, if that project does not eventually proceed, that would certainly not frustrate the realisation of many equally important – and to an extent competing – objectives of the LEP Plan.

For the avoidance of any doubt, ABP does not believe that its support for the development of the Humber as a "super cluster" is in any way at odds with the concerns that it has expressed in connection with Able's proposal, which is in fact just one potential development in the overall scheme of potential Humber developments. It cannot be the case that every potential project which might aspire to be part of the Humber "super cluster" meets the requirements necessary to secure approval, nor that every such project should be approved regardless of its failings or adverse impacts.

Yours sincerely



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<sup>6</sup> See page 14, paragraph entitled "A Supportive Environment for Business"