

C.GEN Killingholme Limited

The Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

The Able Marine Energy Park Development Consent Order

Planning Inspectorate Reference: TR030001

**Written summary of the oral representations of C.GEN Killingholme Limited at the
Issue Specific Hearing on land access and transport**

Interested Party reference: 10015531

INTRODUCTION

1. This written summary ("WS2") has been prepared on behalf of C.GEN Killingholme Limited ("C.GEN"). It relates to the oral submissions made by C.GEN at the Issue Specific Hearing ("ISH") on land access and transport issues relating to the Application for the Able Marine Energy Park ("AMEP") Development Consent Order held on Friday 14 September 2012.
2. This document summarises the submissions made by C.GEN at the ISH, using the agenda of the ISH as a framework. The relevant issues are set out in the order in which they were discussed at the ISH.

ISSUES

3. **Issue 1: Network Rail's freight development strategy for the north-east Lincolnshire area**
 - 3.1 At the ISH Network Rail outlined the extra demand on the rail network that is being created by shifts in UK electricity policy towards biomass. As stated at the ISH, C.GEN considers that it is also important to recognise the substantial role of coal, and in particular clean coal technologies, in meeting the UK's future electricity demands. Government policy is that new facilities for power generation are urgently needed, and that fossil fuel generating stations play a vital role in providing reliable electricity supplies. This includes the development of clean coal facilities. C.GEN gave the example of its Integrated Gasification Combined Cycle plant, which will principally be fuelled by coal. C.GEN expects to make an application under the Planning Act 2008 to the Secretary of State for Energy and Climate Change later this year for that facility.
4. **Issue 2: The possible Killingholme Loop and its requirements**
 - 4.1 At the ISH the possible Killingholme Loop was discussed as one of the options for managing future demand in the area. In terms of this future demand, C.GEN confirmed to the Examining Authority that it is in the process of carrying out an Environmental Impact Assessment for its proposed facility. As Network Rail confirmed in response to questions from C.GEN, Network Rail has been consulted as part of this process and has been made aware of C.GEN's future requirements for rail access. C.GEN is currently in discussions with Network Rail for the purposes of obtaining a connection agreement and ensuring that the necessary train paths are available on the network.

- 4.2 In addition, as confirmed by Network Rail in response to questions from C.GEN, the conditions of Network Rail's licence require that it reviews increases in demand. Future increases in demand are relevant to any decisions whether to dispose of a section of the network. Moreover, Network Rail cannot change the status of any part of the Network without obtaining the agreement of other users.
- 4.3 As submitted at the ISH, C.GEN has a reasonably foreseeable use for the Killingholme Branch Line (the "Railway"). This is set out in greater detail at paragraphs 25.28 to 25.35 of C.GEN's first written representation (WR1). C.GEN indicated its concern at the ISH about the lack of detail that has been provided on Able's proposals for the Railway. C.GEN has not received any detailed proposals about the works Able proposes (whether those works are level crossings, bridges and/or a loop) or how C.GEN's future access would be managed. C.GEN has serious concerns in this regard. Able must make a decision about what works are proposed, assess those works, and ensure that they are properly provided for in the requirements in the Development Consent Order. As C.GEN submitted at the ISH, the Examining Authority cannot give proper consideration to this matter without fully understanding these proposals.
5. **Issue 4: ORR's safety regime requirements for any Network Rail line through private ports or port-related activity**
- 5.1 C.GEN submits that the issue is wider than that of safety alone. It is also a question of operational impacts. The ORR is not an arbiter of efficiency and C.GEN has serious concerns regarding the operational implications of AMEP on the Railway. C.GEN has seen no assessment as to whether AMEP could operate viably and safely in conjunction with third party train movements on the Railway in the way that Able proposes. This is relevant to the question of viability of AMEP. As submitted at the ISH the National Policy Statement for Ports promotes an efficient rail connection to Ports and C.GEN submits that there is no evidence that AMEP could operate without seriously comprising the safe, and efficient, provision of rail services to C.GEN's facility.
- 5.2 C.GEN will rely on an efficient rail service to its facility. C.GEN is a nationally significant infrastructure project that has been registered with the Planning Inspectorate and is currently carrying out consultation on its Preliminary Environmental Information Report ("PEIR"). As stated in C.GEN's WR1 at paragraph 18, C.GEN will require a minimum of five trains per day, a point of which Able has been made aware by C.GEN some time ago. C.GEN refers the Examining Authority to the letter from C.GEN to North Lincolnshire Council appended as

Appendix 1 of C.GEN's comments on the written representations (WR3). C.GEN's future rail requirements are discussed in greater detail in C.GEN's WR1 at paragraphs 25.28 to 25.35 and the Logistics Study prepared by Royal Haskoning appended to WR1 at Appendix 2. C.GEN informed the Examining Authority that the first step towards securing a connection to the Network, a Basic Services Agreement, is imminent. Moreover, C.GEN notes the confirmation received from Network Rail at the ISH that it operates on the basis of a presumption in favour of granting a connection agreement. This means that there have to be reasons why a connection to the network is not possible. Where there are no such reasons, Network Rail will offer a connection agreement. C.GEN thus has a very real interest in ensuring that AMEP does not compromise the efficiency of the Railway. A bipartite agreement between Network Rail and Able will not suffice in this respect.

DLA Piper UK LLP on behalf of C.GEN Killingholme Limited

24 September 2012