



BIRCHAM DYSON BELL

The Secretary of State for Transport  
Department for Transport  
Great Minster House  
Horseferry Road  
London  
SW1P 4DR

Your Ref

Our Ref  
SZC/ADW/Y059258

Date  
15 April 2013

Dear Sir

**The Planning Act 2008**  
**The Conservation of Habitats and Species Regulations 2010**  
**Proposed Able Marine Energy Park, Planning Inspectorate application reference TR030001**

We refer to the above in respect of which we act for the applicant, Able Humber Ports Ltd.

Examination of Able's proposals for a development consent order (**DCO**) to authorise a new Marine Energy Park on the Humber Estuary concluded on 24 November 2012 and we understand you have received a report from the Panel of Examining Inspectors appointed by the Planning Inspectorate to consider Able's application.

We are writing in order to provide an update on conservation matters and in particular discussions which have taken place between Able and Natural England since the close of the examination.

The application includes certain proposals to mitigate and compensate for the adverse effect that the new Marine Energy Park is expected to have on the integrity of the Humber Estuary Special Protection Area, the Humber Estuary Special Area of Conservation and the Humber Estuary Ramsar Site (**the European Site**).

Provision to secure implementation of these measures has been included within Schedule 11 (Requirements) to the proposed DCO. Nonetheless, during the examination process Natural England requested that Able enter into a management agreement pursuant to Regulation 16 of the Conservation of Habitats and Species Regulations 2010 in order to provide a further mechanism for the implementation of the measures in question.

Whilst it was and remains Able's position that the provisions of the DCO itself offer an adequate and robust legal mechanism to secure implementation of mitigation and compensation measures, Able is also content to enter into a management agreement with Natural England to this purpose as it will serve to increase confidence in the delivery of the measures. Accordingly, since the close of the examination, the detailed terms of such an agreement have been the subject of discussion between Able and Natural England, as too have the terms of environmental management and monitoring plans.

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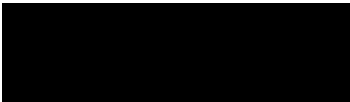
The terms of this legal agreement have now been agreed between the parties and Natural England is satisfied that it provides a robust legal mechanism which will secure the achievement of the objectives set down in the environmental management and monitoring plans and implementation of the compensation measures, should you determine to approve the proposals. Natural England will be also writing to you to confirm this to be their view.

We enclose a copy of the agreement. Although not yet signed, the parties have now agreed its terms and are in the process of executing the documentation. Signed copies can be provided in due course if that would be of assistance.

We trust that the above update will assist you in determining whether to approve the proposed Able Marine Energy Park, particularly as regards your consideration pursuant to Regulation 62 of the Habitats and Species Regulations 2010.

Please direct any correspondence on this matter to Sarah Clark at the address below, or [sarahclark@bdb-law.co.uk](mailto:sarahclark@bdb-law.co.uk).

Yours faithfully



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