

National Infrastructure Team
The Planning Inspectorate
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www.northlincs.gov.uk

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Ref: TR030001

Dear Sir/Madam

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Director of Places
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The Able Marine Energy Park Development Consent Order 2014 – S.I. 2014 No. 2935

Consultation on an application for a Non-Material Change to Schedule 1 and 11 under paragraph 2(1) of Schedule 6 of the Planning Act 2008 and Regulation 7 of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 (as Amended) (the ‘2011 Regulations’)

I am writing to you following receipt of a letter sent to North Lincolnshire Council by Bircham Dyson Bell LLP dated 18 September 2018 notifying the authority of an application for the proposed non-material change to the Able Marine Energy Park Development Consent Order 2014.

This is not the first occasion that North Lincolnshire Council has been contacted regarding this proposal.

We received an application dated 2nd November 2017 (PA/2017/1802) requesting that we deal with a similar application to delete Mitigation Area A and substitute an alternative mitigation area at Halton Marshes, consented under planning permission PA/2016/649.

A separate planning application Ref PA/2017/2141 was also submitted on 27/12/2017 requesting that this Authority grant planning permission for car storage and distribution facilities and associated works which would be located on Mitigation Area A.

This Authority considered their powers and took the view that North Lincolnshire Council did not have the power to determine the Applications (Ref: PA/2017/1802 & PA/2017/2141). This is based on the fact that the power conferred by Schedule 11 of the DCO is limited to circumstances where the alteration falls within the Order limits, has no significant environmental effects beyond those assessed in the DCO application and is limited to consideration of the details of the layout, scale and external appearance of the authorised development.

North Lincolnshire Council duly informed the applicant (Able Humber Ports Limited) that they would need to approach to the Secretary of State as regards amending the DCO.

Having now had the opportunity to consider the consultation letter dated 18th September 2018 and the supporting documentation, we consider that applications carries the same implications as the original applications submitted to North Lincolnshire Council.

Our primary concern is that this application with its proposed amendments to the DCO are material in nature. This is based on two considerations:-

1. The proposed mitigation area is outside the existing DCO limits. It is unclear how the new area could be secured without the extension of the DCO limits. The reliance on the existence of the Halton Marshes Planning Permission is insufficient. This is a significant extension and indeed the area of land in question is not directly adjacent to the existing Order limits.

2. Mitigation Area A was significant factor in the consideration of the DCO application as the site was required to ensure that there were no adverse effects on the qualifying features of the European Site (Humber Estuary). Therefore, the quality, scale and nature of that particular area of land was integral to the consideration of the environmental impact of the development.

It is accepted that in the application for the Halton Marshes site, reference was made that this new area would act as a combined substitution for the AMEP Mitigation Area A , the Able Logistics Park Mitigation Option 2 and the AMEP further Over Compensation Scheme. This Authority as the LPA, had no alternative but to determine the Halton Marsh Application as a standalone planning application. However this permission is not linked to; nor does it supersede any requirements under the DCO. This Authority had no planning grounds to refuse the application.

It is the opinion of North Lincolnshire Council that the removal of the Mitigation Area A, which albeit may potentially be adequately mitigated by the Halton Marsh site coming forward and being approved, remains a material amendment to the DCO.

A further consideration would be that as part of the initial approach to the Local Authority requesting consent for the removal of Mitigation Area A, to be substituted by Halton Marshes, it was stated that this would have a neutral environmental impact as the area was not to be developed. North Lincolnshire Council has since received planning application Ref PA/2017/2141 to develop a large part of Mitigation Area A as a car storage and distribution facility and for port related storage. This would detract from the stated neutral impact.

Please do not hesitate to contact me should you wish to discuss this matter further.

Yours Sincerely



Shaun Robson

Group Manager – Planning and Building Control