

**14 December 2021**

**APPLICATION OF ABLE HUMBER PORTS LIMITED  
FOR A MATERIAL CHANGE  
TO  
THE ABLE MARINE ENERGY PARK DEVELOPMENT CONSENT ORDER 2014  
S.I. 2014 NO. 2935**

**WRITTEN REPRESENTATION**

**OF**

**C.GEN KILLINGHOLME LIMITED**

*(To be submitted electronically for Deadline 1)*

**OUR REF: JPRK/TWHI/2040148.1**

**YOUR REF: TR030006**



## **WRITTEN REPRESENTATION OF C.GEN KILLINGHOLME LIMITED**

### **1 INTRODUCTION**

1.1 This Written Representation is made on behalf of C.GEN Killingholme Limited ("**C.GEN**") in connection with the Examination of an application made by Able Humber Ports Limited ("**AHPL**") for a Material Change to the Able Marine Energy Park Development Consent Order granted on 13 January 2014 (the "**DCO**") (the "**Proposed Material Change**").

1.2 This Written Representation is made further to matters stated in C.GEN's Relevant Representation (received by the Planning Inspectorate on 7 September 2021) and to C.GEN's participation in the Preliminary Meeting held on 16 November 2021. It also reflects further (and ongoing) engagement with AHPL since the Preliminary Meeting.

### **2 OVERVIEW OF C.GEN'S CURRENT OPERATIONS**

2.1 C.GEN is the owner of land adjacent to the Able Marine Energy Park ("**AMEP**"), which has the benefit of an existing DCO (The North Killingholme (Generating Station) Order 2014) ((SI 2014/2434) (subject to a correction order dated 26 October 2015 (SI 2015/1829) and an amendment order (The North Killingholme (Generating Station) (Amendment) Order 2021) dated 16 September 2021 (SI 2021/1055))) for the construction of a new power station, capable of operating as a gas-fired combined cycle facility, or on syngas produced via an integrated gasification production facility.

2.2 C.GEN also acquired the former Centrica Power Station in 2016. C.GEN's current ownership therefore includes all of the cooling water intake/outfall infrastructure between the Power Station site and the River Humber, including the pipework located in the river itself. C.GEN also owns the pumping station adjacent to the infrastructure, and has the benefit of all related easements and rights. Navigation warnings and aids are maintained around the pipework in the river, for navigation safety.

### **3 C.GEN'S CURRENT POSITION**

#### **3.1 Overview**

3.1.1 C.GEN does not have an in-principle objection to the Proposed Material Change.

3.1.2 C.GEN does, however, remain concerned to ensure that the Proposed Material Change does not adversely impact on its ability to carry out its ordinary commercial operations.

3.1.3 C.GEN also seeks to protect the integrity of the existing infrastructure serving the Centrica Power Station site, noting that the cooling water infrastructure remains viable for providing cooling water abstraction and discharge (subject to an environmental permit and other consents as necessary) for future electricity generation uses.

3.1.4 As the Examining Body will be aware, C.GEN currently benefits from the following:

- (a) protective provisions authorised to be included for C.GEN's benefit at Schedule 9, Part 5 to the DCO (the "**C.GEN Protective Provisions**"); and
  - (b) protective provisions authorised to be included for Centrica PLC's benefit at Schedule 9, Part 10 to the DCO (the "**Centrica Protective Provisions**") and which C.GEN inherited upon acquisition of the Centrica Power Station Site in 2016.
- 3.1.5 C.GEN's primary concern is to ensure that both the C.GEN Protective Provisions and the Centrica Protective Provisions remain fit for purpose, taking account of the operational and other effects anticipated to arise from the Proposed Material Change.
- 3.1.6 Whilst C.GEN welcomes the positive engagement with AHPL to date, there are still certain matters (summarised below) which are not yet agreed between the parties. From C.GEN's perspective, it is imperative that these matters are addressed as soon as possible.
- 3.1.7 C.GEN remains committed to collaborating with AHPL to identify and appropriately mitigate any such impacts at the earliest opportunity.
- 3.2 **Interaction with Other Development**
- 3.2.1 C.GEN has previously expressed concerns regarding the assessment of environmental effects undertaken by AHPL in light of the interaction between certain extant planning permissions for uses and development wholly unrelated to AMEP and the development authorised by the DCO (as proposed to be amended by the draft DCO Amendment Order and including the associated development comprising the onshore facilities for manufacturing, assembly and storage).
- 3.2.2 Although certain alternative use permissions have recently expired, C.GEN is aware that AHPL has previously taken steps to renew such temporary change of use permissions where they have lapsed. C.GEN is of the view that there is no reason to suggest this would not or could not happen again. Indeed, whilst other permissions remain extant, C.GEN notes the potential future permanence in respect of alternative uses within the Order Limits which are currently authorised for a temporary period only.
- 3.2.3 Therefore, and based on information made available by AHPL to date, it is not improbable so far as C.GEN is concerned that the implementation of later stages of the AMEP will be prevented by other permanent uses of areas of land within the Order Limits.
- 3.2.4 Taking this into account, C.GEN queries whether it would help the Examination if AHPL could provide an updated masterplan or series of masterplans covering development across the entirety of the land within the Order Limits during both construction and operational phases.
- 3.2.5 In the first instance, this would help give credence to AHPL's current position (i.e. that an 'interim development scenario' does not give rise to more significant environmental effects than have already been assessed for the AMEP scheme as proposed).
- 3.2.6 C.GEN is of the view that publication of a series of updated masterplans would also help C.GEN, the Examining Body and other interested parties to consider the AMEP proposals on a holistic basis - acknowledging as AHPL has itself set out in recent

correspondence, the rapid pace of change within the renewable energy sector over the last decade.

### 3.3 **The Existing Centrica Infrastructure**

3.3.1 C.GEN has previously expressed concerns regarding potential impacts from the Proposed Material Change on the cooling water intake and outfall pipeline between the Power Station site and the River Humber, including pipework in the river.

3.3.2 C.GEN acknowledges that, in response to these comments, AHPL reported additional assessment of impacts as recorded in Chapter 8 of the Updated Environmental Statement (UES) submitted with the application for the Proposed Material Change (APP-079). This assessment concluded that the change to the quay alignment would have a beneficial impact on C.GEN'S infrastructure.

3.3.3 Notwithstanding the additional assessment undertaken by AHPL, C.GEN has at this stage identified three particular matters relating to the Centrica Protective Provisions which it requests are addressed via the draft DCO Amendment Order:

(a) In order to bring matters up to date, C.GEN should be expressly named on the face of the DCO as the beneficiary of the Centrica Protective Provisions (as well as, of course, any future successors in title).

(b) The matters listed at Paragraph 96(2) to Schedule 10 of the DCO (i.e. those matters which must be included within the construction method statement which AHPL is required to agree with C.GEN pursuant to Paragraph 96(1) before commencing any stage of the authorised development) are primarily concerned with the reinforcement and use of designated crossing points above the 'pipelines' (as defined). C.GEN's concern includes in respect of the offshore elements of the pipelines. C.GEN requests that Paragraph 96(2) is amended to include specific reference to those further measures which AHPL would need to agree with C.GEN (and subsequently implement) in order to ensure the future integrity of the existing cooling water intake and outfall pipeline.

Implementation of any such measures must also remain consistent with relevant provisions and conditions included within both the current Deemed Marine Licence ('DML') and any future iterations of the same, noting that the temporal limitations imposed by Paragraph 14(3) to Schedule 8 of the DCO have been extended through the variations made by AHPL. C.GEN notes the previous salient provisions being Paragraphs 12(1)(e) and 25(2)(d) which between them required AHPL to carry out the Centrica outfall maintenance dredging.

(c) As well as the above matters, C.GEN wishes to ensure that the Proposed Material Change does not negatively impact the onshore elements of the pipelines; and given C.GEN's understanding of the uncertainties as acknowledged above regarding the extent and nature of future development within and adjacent to the Order Limits (and in the absence of an updated masterplan for the AMEP), C.GEN submits that the temporal scope of the Centrica Protective Provisions must be extended to secure equivalent protections for the pipelines during the operational phase of the AMEP project.

4           **PROTECTIVE PROVISIONS**

4.1           As explained above, C.GEN's primary concern is to ensure that both the C.GEN Protective Provisions and the Centrica Protective Provisions continue to remain fit for purpose.

4.2           Noting that there are certain matters not yet agreed between the parties, and also substantive points of clarification yet to be provided by AHPL, it remains the case that amendments to both sets of Centrica Protective Provisions may need to be sought by C.GEN where necessary to control and/or ameliorate any impacts on C.GEN's operations likely to arise as a result of the draft DCO Amendment Order.

4.3           C.GEN remains committed to collaborating with AHPL to identify and appropriately mitigate any such impacts at the earliest opportunity.

5           **NEXT STEPS**

5.1           C.GEN continues to engage with AHPL in respect of the matters set out in this Written Representation.

5.2           However, should it not be possible to reach agreement with AHPL in respect of the matters set out above, C.GEN reserves the right to submit further representations and/or to attend any hearing(s) to address *inter alia* the required format of the Protective Provisions and any further necessary or consequential amendments to the Draft Amendment Order.

5.3           If this is necessary, C.GEN also reserves the right to provide the Secretary of State and/or the Examining Body with further written information in advance in support of any detailed issues remaining in dispute between the parties at that stage.

6           **OTHER MATTERS**

6.1           C.GEN confirms that it wishes to be represented at the Accompanied Site Inspection ("**ASI**") currently scheduled for 10 February 2022.

6.2           In that context, C.GEN requests that the following location is visited as part of the ASI:

- (a)           the location of the outfall pipeline in the River Humber.

7           **RESPONSES TO WRITTEN QUESTIONS**

7.1           Appendix 1 to this Written Representation contains C.GEN's responses to the Examining Body's First Written Questions.

7.2           C.GEN would be pleased to provide the Examining Body with further clarification in respect of matters set out in those enclosed responses.

**Bryan Cave Leighton Paisner LLP**

**On Behalf of C.GEN Killingholme Limited**

**14 December 2021**

## Appendix 1

### Responses to First Written Questions

ExQ1:	Question To:	Question:	Response:
<b>General &amp; Cross-Topic Questions</b>			
Q1.0.9	App, C.RO, C.GEN	<p>Will the Able Marine Energy Project be fully built out?</p> <p>If not, what would the implications of mixed, retained, alternative, or interim uses be for other parties?</p>	<p><b>C.GEN:</b></p> <p>Whilst C.GEN is not in a position to comment on the Applicant’s future intentions, it is noted that the Applicant has already obtained (and implemented) various planning permissions within the existing Order Limits for uses and development wholly unrelated to the Able Marine Energy Park (“<b>AMEP</b>”).</p> <p>Although certain alternative use permissions have recently expired, C.GEN is aware that the Applicant has previously taken steps to renew such temporary change of use permissions where they have lapsed. C.GEN is of the view that there is no reason to suggest this would not or could not happen again. Indeed, whilst other permissions remain extant, C.GEN notes the potential future permanence in respect of alternative uses within the Order Limits which are currently authorised for a temporary period only.</p> <p>Therefore, and based on information made available by the Applicant to date, it is not improbable so far as C.GEN is concerned that the implementation of later stages of the AMEP will be prevented by other permanent uses of areas of land within the Order Limits.</p> <p>As the Examining Body (“<b>ExB</b>”) will recognise, the ongoing implementation of the AMEP scheme is tightly regulated by the existing DCO (and other control documents) so as to prevent or mitigate adverse impacts on a range of sensitive environmental and other receptors, as well as <i>inter alia</i> to minimise interference with existing users of the Humber Estuary. For those controls to continue function properly (and for their ongoing fitness for purpose to be assessed in light of the proposed amendments to which this Examination relates), there must be greater clarity as to the Applicant’s future intentions.</p>

ExQ1:	Question To:	Question:	Response:
			<p>Without sight of an updated masterplan or series of masterplans covering intended development across the entirety of the land within the Order Limits during both construction and operational phases, it is impossible for C.GEN and other interested parties to properly consider the likely future impacts from the AMEP proposals alongside other mixed, alternative and/or interim uses on a holistic basis.</p> <p>Publication of a series of updated masterplans will enable C.GEN to identify likely implications on their existing statutory undertakings and future operational functions capable of arising in a 'partial-implementation' scenario.</p>
<b>The Draft Amendment Order</b>			
Q2.0.4	App and other parties	Are new, additional, or amended protective provisions envisaged. Please report on progress in negotiations with the various parties.	<p><b>C.GEN:</b></p> <p>C.GEN acquired the former Centrica Power Station in 2016, and therefore benefits from the protective provisions in Schedule 10 of the DCO, which provide protection for the former Centrica Power station and associated infrastructure (the "<b>Centrica Protective Provisions</b>"). It is intended that the Centrica Protective Provisions will remain in place, subject to any amendments necessary to address the following three matters identified by C.GEN and subject to discussion with the Applicant:</p> <ol style="list-style-type: none"> <li>i. In order to bring matters up to date, C.GEN should be expressly named on the face of the DCO as the beneficiary of the Centrica Protective Provisions (as well as, of course, any future successors in title).</li> <li>ii. Paragraph 96(2) to Schedule 10 to the DCO is required to be amended to include specific reference to those further measures which the Applicant would need to agree with C.GEN (and subsequently implement) in order to ensure the future integrity of the existing cooling water intake and outfall pipeline.</li> <li>iii. Given the uncertainties regarding the extent and nature of future development within and adjacent to the Order Limits, the temporal scope of the Centrica Protective Provisions must be extended to secure equivalent protections for the pipelines during the operational phase</li> </ol>

ExQ1:	Question To:	Question:	Response:
			of the AMEP project.
<b>Operations &amp; Harbour Operations</b>			
Q3.0.3	App, C.GEN	<p>Please set out, or fully signpost, the anticipated environmental impact of the works on C.GEN's infrastructure, including the pumping station and cooling water intake/outfall. (Although the permit has been surrendered, I understand North Killingholme Generating Station could make use of it, (UES 6.3.3).</p> <p>Please describe proposed monitoring and mitigation during construction and operation.</p>	<p><b>C.GEN:</b></p> <p>A Construction Method Statement ("CMS") has been agreed between the Applicant and C.GEN (acting in its capacity as owner of the Killingholme A Power Station site (that site having previously been owned and operated by Centrica Plc)).</p> <p>The CMS is intended to protect the existing cooling water intake and outfall pipelines from damage or interference caused by onshore and offshore construction related activities.</p> <p>With reference to the CMS, C.GEN is satisfied that there are sufficient protections in place in respect of the existing pipelines during the construction phase of the AMEP project as currently consented.</p> <p>However, given the lack of clarity as acknowledged elsewhere regarding the extent and nature of future development within and adjacent to the Order Limits (taking account also of the effect of the draft DCO Amendment Order), and the consequent lack of certainty as to the future cumulative impacts of that development, C.GEN considers that the scope of the CMS may need to be revised in order to secure equivalent protections for the pipelines during the operational phase of the AMEP project.</p> <p>It is considered that this would be facilitated through an amendment to the Centrica Protective Provisions currently included at Schedule 10 of the DCO.</p>
Q3.0.4	App, C.GEN	<p>Would related easements and rights be affected?</p> <p>Please confirm existing or agree modified protective provisions as appropriate.</p>	<p><b>C.GEN:</b></p> <p>C.GEN has discussed this matter with the Applicant and does not consider that any existing easements or other land rights in respect of which it holds the benefit will be adversely affected by the draft DCO Amendment Order.</p> <p>However, C.GEN's primary concern is to ensure that the structural and functional integrity of its existing infrastructure is fully protected in any future development scenario concerning AMEP.</p>



ExQ1:	Question To:	Question:	Response:
			<p>Therefore, and as is explained in the response to Q2.0.4, C.GEN requests that certain specific and targeted modifications are made to the Centrica Protective Provisions.</p> <p>C.GEN reserves the right to make representations to the ExB on this matter should the position change based on the outcome of further and ongoing engagement with the Applicant.</p>



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