Planning Act 2008
Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011
Document reference: TR030006/D5/SOCG/C.GEN/T

Able Marine Energy Park

Material Change 2

Statement of Common Ground with C.GEN

(Tracked)

ABLE MARINE ENERGY PARK DCO 2014

MATERIAL CHANGE 2

Planning Inspectorate Reference: TR030006

Statement of Common Ground

Between

ABLE HUMBER PORTS LIMITED

and

C.GEN KILLINGHOLME LIMITED

Document control			
Document properties			
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1 Introduction and Purpose

1.1 Purpose of Statement of Common Ground

1.1.1 This Statement of Common Ground ('SoCG') is between Able Humber Ports Limited ('the Applicant') and C.GEN Killingholme Limited ('C.GEN') in relation to an application ('the Application') for a material change to the Able Marine Energy Park Development Consent Order 2014 (the 'DCO'). The Application was made pursuant to section 153 and paragraphs 3 and 4 of Schedule 6 of the Planning Act 2008, and Regulation 16 of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011.

1.1.2 The Planning Inspectorate allocated the Application the reference number TR030006, and published documents relating to the Application on its website under the title "Material Change 2". The Applicant submitted the Application to the Planning Inspectorate on 25 June 2021.

1.1.3 The Applicant and C.GEN are collectively referred to in this SoCG as 'the parties'. The parties have been, and continue to be, in direct communication in respect of the interface between the application and the interests of C.GEN.

1.1.4 The purpose and possible content of SoCGs is set out in paragraphs 58 – 65 of the Department for Communities and Local Government's guidance entitled *"Planning Act 2008: examination of applications for development consent"* (26 March 2015). Paragraph 58 of that guidance explains the basic function of SoCGs:

"A statement of common ground is a written statement prepared jointly by the applicant and another party or parties, setting out any matters on which they agree. As well as identifying matters which are not in real dispute, it is also useful if a statement identifies those areas where agreement has not been reached. The statement should include references to show where those matters are dealt with in the written representations or other documentary evidence."

1.1.5 SoCGs are therefore a useful and established means of ensuring that the evidence at the examination focuses on the material differences between the main parties, and so aim to help facilitate a more efficient examination process.

1.1.6 The purpose of this SoCG is to set out agreed factual information about the Application. It is intended that this SoCG should provide matters on which the Parties agree. As well as identifying matters which are not in dispute, the SoCG may also identify areas where agreement has not been reached.

1.1.7 This SoCG has been prepared in response to the relevant representations made by C.GEN received by the Planning Inspectorate on 7 September 2021. The matters

addressed are:

- The articles of the draft DCO Amendment Order.
- The assessment of development made under separate extant planning applications.
- Protection for C.Gen infrastructure

1.1.8 It is envisaged that this SoCG will evolve during the examination phase of the DCO material change application.

1.1.9 Subsequent drafts will be agreed and issued, with the version numbers clearly recorded in the 'Document Control' table at the beginning of the document.

1.2 Description of the DCO and material change application

1.2.1 The Able Marine Energy Park ('AMEP') is a proposed 1288m long quay on the south bank of the Humber Estuary approximately 14 miles south-east of Hull, and north of North Killingholme. It is comprised of a quay, reclaimed estuarine habitat and facilities to allow offshore energy components and parts to be manufactured, assembled, stored and exported to their installation sites and elsewhere. The development is located the administrative areas of North Lincolnshire Council and East Riding of Yorkshire Council (although the Application relates to part of the development located in the administrative area of North Lincolnshire Council only).

1.2.2 The DCO came into force on 29 October 2014. Since this time, construction of the pumping station has commenced.

1.2.3 On 25 June 2021 the Applicant submitted the Application which comprised the following proposed changes:

(a) a realignment of the proposed quay (within its existing limits of deviation) to remove a berth pocket at the southern end and introduce a setback at the northern end;

(b) changes to the construction methodology to allow the relieving slab at the rear of the quay to be at the surface as an alternative to being buried or to be omitted altogether, and the use of anchor piles as an alternative to flap anchors;

(c) consequential changes to dredging; and

(d) unrelated to the quay changes, the realignment of a footpath diversion to the north west of the site to go round the end of a railway track instead of crossing it.

Further details of the material change can be found in the Application cover letter [APP-001] which accompanies the material change application.

1.3 C.GEN

1.3.1 C.GEN is the owner of land adjacent to 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.

1.3.2 In 2016, C.GEN acquired the former Centrica power station, which benefits from protective provisions contained in Schedule 10 of the AMEP DCO.

1.3.3 C.GEN submitted a relevant representation to the Planning Inspectorate regarding the Application, received by the Planning Inspectorate on 7 September 2021.

1.4 Status of the SoCG

1.4.1 This signed version of the SoCG represents the position between the Applicant and C.GEN at ~~18 January~~1 March 2022.

2 Summary of Consultation

2.1 Consultation carried out by the Applicant and the way in which it has informed the Application is set out in full in the Consultation Report [APP-061] submitted with the Application.

2.2 C.GEN was included in the pre-application consultation carried out by the Applicant. C.GEN and the Applicant have continued direct communication in respect of the Application.

3 Matters which are fully agreed between the parties

3.1 This section of the SoCG describes the 'matters agreed' in detail between the parties.

The articles of the draft DCO Amendment Order

3.2 Subject to any changes necessary to address the substantive issues below, C.GEN agrees that there are no comments on or concerns regarding the Articles within the draft DCO Amendment Order.

Phasing of the Development and Continuance of Permitted Uses

3.3 C.GEN expressed concerns regarding the assessment of environmental effects undertaken by the Applicant 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).

3.4 The Applicant has confirmed to C.GEN that the operations permitted within the AMEP site by these historic permissions are limited to port related storage operations and car workshops, and in some areas simply to vehicle storage and distribution. By contrast, the alternative operations on the same land permitted by the DCO are much broader in scope. Specifically, the DCO permits the construction and operation of 10 factories within the delineated area in Figure 12.1 in Chapter 12 of the updated Environmental Statement (APP-083).

3.5 The parties agree that it is not plausible that the construction and operation of ten additional factories results in less environmental impact than simply storing port related goods in accordance with existing consents.

Protection of C.GEN infrastructure (matters resolved)

3.6 The parties recognise that 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 'Centrica Protective Provisions'). The parties note that the Centrica Protective Provisions remain in place and that the Applicant does not propose to amend them as part of the Application.

3.7 The Applicant notes C.GEN'S comments in response to pre-application consultation, in which it expressed concerns regarding potential impacts from the Application on C.GEN's infrastructure relating to the cooling water intake and outfall between the power station site and the River Humber, including pipework in the river.

3.8 C.GEN acknowledges that, in response to these comments, the Applicant reported additional assessment of impacts as recorded in Chapter 8 of the Updated Environmental Statement (UES) submitted with the Application (APP-079). This assessment concluded that the change to the quay alignment would have a beneficial impact on C.GEN'S infrastructure (see paragraph 8.4.67 of the UES).

4 Matters not agreed between the parties

The assessment of development made under separate extant planning applications

4.1 Although certain alternative use permissions (including PA/2018/114 and PA/2019/497) 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 (including PA/2018/1416) 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.

4.2 The Applicant notes that any change of use will require planning permission (including environmental assessment as appropriate) and C.GEN will be entitled to respond to such future applications when they are submitted. The appropriate time for any concerns to be raised by C.GEN is when any planning applications are being considered. It is not appropriate for the examination of the proposed material change to include consideration of potential planning applications which may or may not be made in the future, particularly given that the proposed material change does not involve any land-based development.

4.3 C.GEN currently believes that it is not improbable that the implementation of later stages of the authorised development may be prevented by other permanent uses of areas of land within the Order Limits.

4.4 Taking this into account, C.GEN ~~queries whether~~considers that it would ~~help~~have helped the examination if the Applicant could ~~provide~~have provided 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. In the first instance, this would ~~help~~have helped give credence to the Applicant'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).

4.5 C.GEN is of the view that publication of a series of updated masterplans would also ~~help~~have

helped C.GEN, the Examining ~~Board~~Body and other interested parties to consider the AMEP proposals on a holistic basis - acknowledging as the Applicant has itself set out in recent correspondence, the rapid pace of change within the renewable energy sector over the last decade.

4.6 For the reasons set out in paragraph 4.2, the Applicant considers it would not be appropriate for updated masterplans showing potential future changes to be considered as part of the examination of the proposed material change.

Protection of C.GEN infrastructure (matters under discussion)

4.7 Notwithstanding the additional assessment undertaken by the Applicant, 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:

4.7.1 For the avoidance of future doubt, 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).

4.7.2 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 the Applicant 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 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.

4.7.3 Implementation of any such measures must remain consistent with relevant provisions and conditions included within 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 the Applicant (see DML variation 2, submitted as appendix 1-2 to the UES (APP-102)). C.GEN notes the salient provisions as being Paragraphs 12(1)(e) and 25(2)(d) which between them require the Applicant to carry out the Centrica outfall maintenance dredging.

4.7.4 As well as the above matters, C.GEN wishes to ensure that the Application does not negatively impact the onshore and offshore 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.

4.8 As set out in section 3, it is acknowledged that no additional adverse impacts on C.GEN'S infrastructure are anticipated as a result of the proposed material change (in fact, the change is likely to have a beneficial impact). As such, the Applicant does not consider that it is necessary to agree additional or improved Protective Provisions for C.GEN.

4.9 The Applicant notes that the definition of “Centrica” in the original DCO is broad, and specifically states that it includes Centrica’s “transferees”. As such, the Applicant agrees with C.GEN’S conclusion, set out in its relevant representation, that it already has the benefit of these Protective Provisions. The Applicant does not consider it is necessary to amend the Protective Provisions to expressly name C.GEN.

Signed on Behalf of ABLE HUMBER PORTS LIMITED

Signature: 

Name: Richard Cram

Position: Engineering Director

Date:24-2-22

Signed on Behalf of C.GEN KILLINGHOLME LIMITED

Signature:

Name:

Position:

Date:

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Description	Final SoCG for C.GEN
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