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To the Applicant
(By email only)

Your Ref:

Our Ref: TR030007

Date: 6 March 2023

Dear Mr Greenwood

Planning Act 2008 (as amended) – Section 51

Application by Associated British Ports for an Order Granting Development Consent for the Immingham Eastern Ro-Ro Terminal

Advice following issue of decision to accept the application for examination

On 6 March 2023 the Secretary of State decided that the application for the above project satisfied the acceptance tests under section 55 of the Planning Act 2008 (PA2008). The Planning Inspectorate's acceptance checklist and the application documents have been published and made available on the project page of our website.

In undertaking checks at the acceptance stage, the Inspectorate has made some initial observations in relation to the application. This letter comprises advice to the Applicant provided under section 51 of the PA2008 in respect of these initial observations. The Applicant should pay attention to its content and consider how appropriate action might be taken in response.

Consultees identified on a precautionary basis

Given the individual circumstances of this case, the Planning Inspectorate advises taking a precautionary approach to consultation under s42(1)(a) of PA2008 to ensure that all persons potentially affected by, or potentially likely to have an interest in the application are given the opportunity to participate fully in the Examination of the application. On this basis, the Applicant may wish to serve notice on the bodies listed in Box 6 of the section 55 checklist when it serves notice of the accepted application under s56(2)(a) of the PA2008; unless there is a specific justification why this is not necessary.

Minor errors, omissions and matters for clarification

There are minor errors, omissions and matters for clarification, as reflected in Box 30 of the acceptance checklist. These matters are expanded on below.

Break lines have been used in the Engineering Sections, Drawings and Plans (Doc 2.6) in sections E-E and G-G break lines for the proposed 30 metre lighting masts. The Applicant is requested to ensure that all sections, drawings and plans show the lighting masts in their totality, ie without break lines. Making this change to the drawings may require reducing the number of sections included on each drawing sheet.

Throughout the draft Development Consent Order (dDCO, Doc 3.1) the party constructing and operating the proposed development has been referred to as “the Company” rather than “Undertaker”. Undertaker is the term normally used and the Applicant may wish to consider using Undertaker in the dDCO rather than Company. Should the Applicant decide not to make this change it is advised to provide a written justification for that.

The dDCO’s Article 25 (Powers to dredge) would give powers, amongst other things, to dispose of the arisings from dredging in the UK marine area pursuant to a deemed marine licence. Schedule 3 of the draft DCO includes a draft deemed marine licence, which amongst other things, states the co-ordinates for two disposal sites in the Humber. Although the locations for the dredging disposal sites are shown in Figure 2.2 of Volume 2 of the Environmental Statement (Doc 8.3.2) those locations have not been shown on the Location Plan (Doc 2.1) or amongst the Land Plans (Doc 2.2). While reliance on co-ordinates rather than a plan has been accepted in the made Port of Tilbury Expansion DCO 2019, that approach has not been followed when DCO applications have been submitted for a number of off-shore wind DCOs seeking dredging disposal powers and which have also included deemed marine licences. The Applicant is therefore requested to give consideration to including the locations for the proposed dredging disposal sites on the Location Plan and in the Land Plans. Should the Applicant be minded to make such a change, the Book of Reference would also needed to be revised. Should the Applicant decide not to make this change to the Location and Land Plans then it should provide justification for that decision.

At paragraph 5.6(b) of the Explanatory Memorandum (EM, Doc 3.2) a definition for the term “Undertaker” has been provided. However, Undertaker, in the context of the party constructing and operating the proposed development, has not been used in the dDCO. As previously referred to above, the Applicant has been advised to substitute “Company” for “Undertaker” in the dDCO. Should the Applicant not be minded to undertake that change it should be explained why a definition for Undertaker has been included in the EM.

Paragraphs 5.16 to 5.18 of the EM, in explaining the purpose of Article 4 of the dDCO, refer to the incorporation of the Harbours, Docks and Piers Clauses Act 1847 (the 1847 Act). The Applicant is requested to submit a copy of the 1847 Act to provide context for the intended incorporation of this legislation in the dDCO and to enable this legislation to be included in the Examination Library for this application.

Paragraphs 10.15 and 10.16 of the EM explain why the applicant intends that some parts of the River Humber Conservancy Act 1852, the Humber Conservancy Act 1899 and the Humber Conservancy Act 1905 should be modified under Article 34 of the dDCO. The

Applicant is requested to submit relevant extracts from those local acts to provide context for the modifications to them that are being proposed in the dDCO and to enable this legislation to be included in the Examination Library for this application.

Section 6.7 of Environmental Statement (ES) Chapter 6: Impact Assessment Approach contains a glossary which is welcomed. The list however is limited, and technical terminology associated with the Proposed Development should be provided, for example, the term 'bankseat' should be included.

Annex C of ES Appendix 6.2: Preliminary Ecological Appraisal (Doc 8.4.06(b)) includes a link to the Wold Ecology Ltd Preliminary Ecological Appraisal. The link does not appear to work and would in any case have to be redacted when the document is published. The Applicant is requested to provide a separate copy of the Wold Ecology Ltd Preliminary Ecological Appraisal. As a matter of good practice, the inclusion of links to documents that have not been submitted with an application should be avoided because links may be broken, as in this case, or result in readers viewing an out of date document. The Applicant is therefore advised to submit electronic copies of any documents which it wished Interested Parties, the Examining Authority, or the Secretary of State for Transport to have regard to.

Please pay close attention to the advice set out in this letter and act on it accordingly. It is requested that as far as possible the Applicant actions these points before the commencement of the Relevant Representation period. This will contribute towards a more efficient examination and give any future Examining Authority comfort that the documentation is complete and accurate.

We trust you find this advice helpful, however if you have any queries on these matters please do not hesitate to contact our office using the contact details at the head of this letter.

Yours sincerely

Gail Boyle

Gail Boyle

Operations Lead – National Infrastructure and Environment

This communication does not constitute legal advice.

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