

Infrastructure Planning

Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

Immingham Eastern RoRo Terminal DCO Application

Responses to Deadline 1 Submissions

on behalf of

CLdN Ports Killingholme Limited

1. INTRODUCTION

- 1.1 This document comprises the responses by CLdN Ports Killingholme Limited (**CLdN**) to documents submitted at Deadline 1 of the examination of the application for a Development Consent Order (**DCO**) for the Immingham Eastern RoRo Terminal (**IERRT**) (the **Proposed Development**).
- 1.2 The table in Section 2 of this document contains CLdN's responses to submissions by Associated British Ports (**ABP**) (the **Applicant**) at Deadline 1.
- 1.3 The table in Section 3 of this document contains CLdN's responses to submissions by other interested parties at Deadline 1.

2. **RESPONSES TO THE APPLICANTS SUBMISSIONS AT DEADLINE 1**

Submission	CLdN Comments
<p>[AS-018] Applicant's draft itinerary for the Accompanied Site Inspection (ASI)</p>	<p>CLdN notes that the Applicant has submitted a draft itinerary for the Accompanied Site Inspection. The Applicant has included a visit to the Port of Killingholme at point k). However, CLdN has previously provided the Applicant with a full itinerary that was not included. Our suggested itinerary for the CLdN Killingholme element of the ASI is as follows:</p> <ol style="list-style-type: none"> 1. visit the Port of Killingholme berths and (subject to operational safety and security) view the loading/unloading of a ro-ro vessel; 2. view the operations of the CLdN Terminal with respect to the access controls and gates, the freight handling and storage areas (such as the container yard, trailer storage area and car storage area) and ancillary operations; 3. visit the Border Control facilities including the border control post and UK Border Force building; and 4. visit CLdN land available for Terminal expansion. <p>The above itinerary would require approximately 90 minutes, including a security check-in.</p>
<p>[REP1-004] to [REP1-007]: Version 2 of the draft Development Consent Order and Explanatory Memorandum</p>	<p>CLdN has provided comments on the updated draft Development Consent Order (dDCO) and Explanatory Memorandum in Appendix 2 to its Written Representation submitted at Deadline 2.</p>
<p>[REP1-008] Summary of the Applicant's ISH1 oral case</p>	<p>CLdN's position on the dDCO is set out in Appendix 2 to CLdN's Written Representation at Deadline 2, as noted above. The commentary in Appendix 2 includes CLdN's response to the Applicant's submissions in its Summary of ISH1 Oral Case [REP1-008] on the jurisdictions of local and harbour authorities in relation to the Proposed Development (at paragraphs 40-43), the need for a record of the discharge of Requirements (at paragraph 44) and the conflict between the 'open port duty' and article 22 of the dDCO (at paragraphs 13-14).</p>
<p>[REP1-009] Summary of the Applicant's Issue Specific Hearing 2 (ISH2) oral case</p>	<p>CLdN acknowledges the Applicant's summary of its submissions at ISH2 and responses to the Actions arising from ISH2 [EV3-012] (ISH2 Actions). In terms of traffic-related data and submissions provided by the Applicant in response to ISH2 Actions, CLdN notes that it has complied with the Examining Authority's direction for discussions to be held between the Applicant, DFDS and CLdN on Traffic issues. These discussions are ongoing and CLdN notes that further data is expected to be provided by the Applicant in relation to these discussions and the ISH2 Actions, such as the provision of full gate-sensitivity analysis by the Applicant in the absence of HGV controls at the Proposed Development. In that context, CLdN reserves its position and commentary on this data as the further</p>

Submission	CLdN Comments
	<p>committed information is provided and discussions progress. CLdN has stated its current position in paragraphs 5.1.1 and 5.1.2 of its Written Representation.</p> <p>With specific regard to the Applicant's submissions at Appendix 6 of its Summary of Issue Specific Hearing 2 (ISH2) Oral Case) [REP1-009] on <i>R (ClientEarth) v Secretary of State for Business, Energy and Industrial Strategy</i> [2020] EWHC 1303 and [2021] EWCA Civ 43 (the ClientEarth cases), CLdN has set out its position on the ClientEarth cases in Part 6 of its Written Representation.</p>
<p>[REP1-010] Tracker of the Statements of Common Ground (SoCG) between the Applicant and each Interested Party</p>	<p>CLdN acknowledges that the Applicant has provided a draft Statement of Common Ground (SoCG) to CLdN. CLdN is reviewing the SoCG and intends to issue comments to the Applicant's adviser Clyde & Co shortly after Deadline 2.</p>
<p>[REP1-011] Tracker of the Principal Areas of Disagreement Summary Statements (PADSS) from each Interested Party</p>	<p>CLdN acknowledges that the Applicant will provide a response to CLdN's Principal Areas of Disagreement Summary Statement (PADSS) at Deadline 3. CLdN has provided an updated PADSS at Deadline 2.</p>
<p>[REP1-012] Protective Provisions Tracker</p>	<p>The Applicant has indicated in [REP1-012] that it is waiting for CLdN to provide a first draft of protective provisions (the PPs) for CLdN. CLdN does not consider that responsibility for drafting the PPs sits with it, not least because as matters currently stand the Applicant has not accepted that the DCO <i>should</i> include any PPs for CLdN. At the Applicant's invitation, CLdN wrote to the Applicant on 31 August 2023 with full details of the justification for, and scope of, protective provisions that it requires to be included in the final DCO (should the Secretary of State decide to grant the DCO application). A response to that letter from the Applicant is awaited at the time of writing.</p>
<p>[REP1-013] Response to Relevant Representations</p>	<p>CLdN acknowledges the Applicant's Response to the Relevant Representations submitted by interested parties in relation to the DCO application for the Proposed Development. At Tables 2.1, 3.6, 4.13, 5.7, 6.2, and 8.3, the Applicant has responded to the points raised by CLdN in its Relevant Representation [RR-007]. Taking into account the Applicant's Response in REP1-013, submissions made by the Applicant and interested parties at the Issue Specific Hearings 1 (ISH1) and 2 (ISH2) on 25 and 27 July 2023 respectively, and CLdN's Post Hearing Submissions on ISH1 [REP1-024] and ISH2 [REP1-025], the Applicant's responses have been addressed at the following parts of CLdN's Written Representation submitted at Deadline 2 (the Written Representation):</p> <ul style="list-style-type: none"> • Table 2.1 on Need, Alternatives and Policy Matters: CLdN has provided a full explanation of and update on its position on Need at Part 2 of the Written Representation. • Table 3.6 on Biodiversity, and specifically CLdN's comments on the Applicant's Habitats Regulations Assessment: CLdN has summarised and updated its ISH2 submissions on this matter under Item 4 of its Post

Submission	CLdN Comments
	<p>Hearing Note on ISH2 [REP1-025]. This has been further detailed in paragraphs 5.1.3 and 5.1.4 of CLdN's Written Representation.</p> <ul style="list-style-type: none"> Table 4.13 on Cumulative and In-combination Effects: CLdN has summarised and updated its ISH2 submissions on this matter under Item 4 of its Post Hearing Note on ISH2 [REP1-025]. This has been further detailed in paragraphs 5.1.3 and 5.1.4 of CLdN's Written Representation. Table 5.7 on Transport: As noted at paragraphs 5.1.1 and 5.1.2 of CLdN's Written Representation, discussions on the submissions commented on by the Applicant in this table are ongoing between the Applicant, DFDS and CLdN. Table 6.2 on Water and Flooding: CLdN acknowledges the Applicant's comments in this Table. Table 8.3 on Terrestrial Heritage: CLdN acknowledges the Applicant's comments in this Table.
[REP1-014] Port of Immingham and River Humber – Management, Control and Regulation	As noted above, CLdN has responded to the Applicant's submissions on the jurisdictions of local and harbour authorities in relation to the Proposed Development with commentary in Appendix 2 to its Written Representation submitted at Deadline 2.
[REP1-019] (Traffic survey data from ABP)	CLdN acknowledges the Traffic survey data submitted by the Applicant. As noted above, discussions between the Applicant, DFDS and CLdN on Traffic issues are ongoing and CLdN reserves comment on this data as discussions progress. CLdN has stated its current position in paragraphs 5.1.1 and 5.1.2 of its Written Representation.

3. **RESPONSES TO OTHER INTERESTED PARTIES' RESPONSES AT DEADLINE 1**

Submission	CLdN Comments
DFDS	
[REP1-029] to [REP1-033] (DFDS Traffic data and analysis in response to ExA action points)	CLdN acknowledges DFDS's submissions on Traffic data and analysis. As noted above, discussions between the Applicant, DFDS and CLdN on Traffic issues are ongoing and CLdN reserves comment on this data as discussions progress. CLdN has stated its current position in paragraphs 5.1.1 and 5.1.2 of its Written Representation.

Submission	CLdN Comments
Immingham Oil Terminal (IOT)	
[REP1-035] Correspondence between the Applicant and IOT on Navigation	CLdN supports IOT's request for information from the Applicant in order to prepare a further Navigational Risk Assessment on the basis of concerns around the inadequacy of the Applicant's Navigational Risk Assessment, as discussed between the Applicant and interested parties at ISH2. CLdN notes that the Applicant refused to provide that information on the basis of broad categories of document types that it suggested all the requested information fell within. CLdN supports IOT's continuing request for the required documents.
Marine Management Organisation (MMO)	
[REP1-020] MMO Rule 17 further information	CLdN acknowledges the MMO's submission and notes the emphasis it has made in section 1.3 on the seriousness of Natural England's ongoing concerns and the legislative restriction of permitting the Proposed Development if certain outstanding concerns are not resolved. CLdN echoes this concern, as detailed in paragraphs 5.1.3 and 5.1.4 of CLdN's Written Representation submitted at Deadline 2.
Marine and Coastguard Agency (MCA)	
[REP1-021] Comments on ISH1 and ISH2 submissions	CLdN acknowledges the MCA's comments particularly in its lead role in advising on shipping and navigational safety.
Natural England	
[REP1-022] Natural England's Principal Areas of Disagreement Summary Statement (PADSS)	CLdN notes that Natural England has indicated a number of outstanding concerns in its PADSS submitted at Deadline 1, including that the Applicant has still to provide additional environmental information through a revised in-combination assessment regarding Humber Estuary SAC/SSSI loss of intertidal, subtidal and seabed habitats during construction.
North East Lincolnshire Council (NELC)	
[REP1-023] NELC's Local Impact Report	CLdN notes that NELC is awaiting further review of the highways impacts based on concerns raised by other interested parties. CLdN has been participating in discussions on traffic and transport concerns with the Applicant and DFDS, and has summarised its position at this stage in paragraphs 5.1.1 and 5.1.2 of its Written Representation submitted at Deadline.