

IMMINGHAM EASTERN RO-RO TERMINAL



Statement of Common Ground between Associated British Ports and Network Rail

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Document Information

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1 Section 1 – Introduction

Overview

- 1.1 This Statement of Common Ground (“SoCG”) has been prepared in relation to the application (the “Application”) by Associated British Ports (“ABP”), made under the provisions of Section 37 of the Planning Act 2008 (“the PA 2008”), for a Development Consent Order (“DCO”) which if approved will authorise the construction and operation of the Immingham Eastern Ro-Ro Terminal (IERRT).
- 1.2 The IERRT development as proposed by ABP falls within the definition of a Nationally Significant Infrastructure Project (“NSIP”) as set out in Sections 14(1)(j), 24(2) and 24(3)(b) of the PA 2008.

The Project

- 1.3 In summary, the IERRT development comprises two principal elements:
- (a) on the marine side, the construction of a new three berth Roll-on/Roll-off harbour facility and related marine infrastructure; and
 - (b) on the landside, the provision of a suitably surfaced area to accommodate a terminal building and ancillary buildings together with storage and waiting space for the embarkation and disembarkation of the vessel borne wheeled cargo.
- 1.4 The landside development will also include, within the Order Limits – i.e., within the boundary of the development site – a building for the UK Border Force together with an area for disembarked traffic awaiting UK Border Force checks prior to departure from the Port.
- 1.5 ABP will also be providing an area of off-site environmental enhancement at Long Wood, which is located close to the Port’s East Gate.

Parties to this Statement of Common Ground

- 1.6 This SoCG is submitted on behalf of:
- (a) ABP – the promoter of the IERRT development and the owner and operator of the Port of Immingham; and
 - (b) Network Rail Infrastructure Limited (“Network Rail”) – is the owner and developer of railway infrastructure in England, Scotland, and Wales. Network Rail operates the rail line immediately adjacent to the Port of Immingham.
- 1.7 In this SoCG ABP and Network Rail are collectively referred to as “the Parties”.
- 1.8 The solicitors acting for ABP in relation to this matter are Clyde & Co and are referred to as “C&C”. The solicitors acting for Network Rail are Addleshaw Goddard and are referred to as “AG”.

The Purpose and Structure of this Document

- 1.9 The purpose of this document is to identify and summarise any agreement, disagreement or matters outstanding between the parties on matters relevant to the examination so as to assist the Examining Authority in its consideration of the Application.
- 1.10 In preparing this SoCG, the guidance provided in 'Planning Act 2008: examination of application for development consent' (Department for Communities and Local Government (as it then was), March 2015) has been fully taken into account.
- 1.11 Section 1 of this SoCG is designed to act as a general introduction to the IERRT project and to the parties concerned.
- 1.12 Section 2 of this SoCG sets out a summary of the correspondence and engagement between the parties to date.
- 1.13 Section 3 of this SoCG sets out the matters which have been agreed or which remain outstanding, together with any matters upon which it has not been possible to reach agreement.
- 1.14 The Table in Section 3 uses a colour coding system to indicate the status of the matters between the Parties as follows:
- (a) Green – matter agreed;
 - (b) Orange – matter ongoing; and
 - (c) Red – matter not yet agreed.

2 Section 2 – Summary of Engagement

- 2.1 A summary of the consultation and engagement between ABP and Network Rail up to the date of this SoCG in relation to the IERRT project generally and concerning the matters raised in this SoCG specifically is presented in Table 2.1 below.
- 2.2 It is agreed by the Parties to this SoCG that Table 2.1 is an accurate record of the meetings and key correspondence between the Parties.
- 2.3

Table 2.1 – Summary of Engagement

Date	Form of Correspondence	Summary with key outcomes and points of discussion
13.10.21	Email	Network Rail submitted Scoping Opinion Response.
19.01.22	Email	ABP issued notification of the start of the Statutory Consultation.
22.02.22	Email	Network Rail issued S42 Consultation Response.
28.03.22	Email	ABP provided draft Heads of Terms (“HoT”) for comment.
28.03.22	Email	Network Rail advised that the matter should be dealt with by Eastern Region Property Services.
31.03.22	Email	ABP provided a project update and requested a call.
04.04.22	Email	ABP and Network Rail arranged call.
06.04.22	Email	ABP provided draft HoT for comment.
19.04.22	Email	Request for a Teams Meeting
21.04.22	Email	ABP followed up on request for comment on draft HoT.
28.04.22	Email	Network Rail confirmed that the lands team would produce plans.
28.04.22	Email	ABP provided dwg of the development boundary.
29.04.22	Email	Network Rail requested the boundary to be provide as a shp file.
04.05.22 & 12.05.22	Email	ABP provided plan in various formats.
18.05.22	Email	ABP followed up on request for comment on draft HoT.
01.06.22	Email	ABP follow up on issues raised during consultation and to provide draft protective provisions.
15.06.22	Email	AG requested for plans and construction traffic information. Suggested the inclusion of protective provisions and a framework agreement.
24.06.22	Email	C&C agreed to a call to discuss issues.
30.06.22	Email	AG confirmed standard approach is to require a side agreement. Proposed a call for the following week.

08.07.22	Email	C&C proposed a date for a call to discuss issues.
11.07.22	Phone Call	C&C and AG discussed outstanding issues and CEMP.
11.07.22	Email	C&C sent through Draft CEMP as discussed on phone call.
12.07.22	Email	C&C sent through draft Works Plans, land plans and demarcation agreement.
12.07.22	Email	AG confirmed receipt of plans.
14.07.22	Phone Call	C&C confirmed undertaking for legal costs.
18.07.22	Email	AG requested some points of clarification on the plans.
18.07.22	Email	C&C responded to queries.
26.07.22	Email	AG requested plans for the demarcation agreement.
09.08.22	Email	C&C provided plans from demarcation agreement.
09.08.22	Email	AG confirmed receipt of demarcation plans.
27.10.22	Email	C&C issued notification of Supplementary Statutory Consultation.
06.11.22	Email	AG sent through amended protective provisions and first draft of framework agreement for C&C to sign.
08.11.22	Email	AG requested for shape file of plans for land containing affected Network Rail assets.
11.11.22	Email	C&C sent through shapefiles for the works and lighting strategy.
21.11.22	Email	AG requested a copy of the HGV route plan.
22.11.22	Email	C&C queried why the HGV route was requested.
22.11.22	Email	AG clarified the request for the HGV plan to understand the impact on bridges or level crossings as a result of HGV's moving during construction.
23.11.22	Email	C&C sent through HGV routing plan.
23.11.22	Email	AG requested that C&C complete Asset Protection Initial Enquiry Questionnaire.
28.11.22	Email	AG submitted SSC Response.
28.11.22	Email	C&C provided completed Asset Protection Questionnaire.
07.12.22 (various emails)	Email	AG acknowledgement of receipt of the Asset Protection Initial Enquiry Questionnaire.
07.12.22	Email	C&C requested clarification on the email regarding asset protection.
23.12.22	Email	C&C sent through amended protective provisions.
28.12.22	Email	AG noted that it is their standard position that its standard protective provisions should be included on the face of the order.
10.01.23	Phone Call	Discussed agreement between DB Cargo/ Network Rail/ABP and requested an undertaking.
12.01.23	Email	AG suggested 10.02.23 for call to discuss project.

19.01.23	Email	AG requested an uplift in undertaking to £10,000 plus VAT.
01.02.23	Email	AG noted that application has been withdrawn and requesting confirmation as to whether proposals relating to Network Rail will be changing.
24.02.23	Meeting	Network Rail engineering team highlighted areas of the design where the project needs to demonstrate compliance.
02.03.23	Email	AG issued meeting notes and guidance notes.
09.03.23	Email	C&C issued notice of acceptance of application.
09.03.23	Email	C&C followed up on revised agreement.
16.03.23	Email	C&C followed up again on revised agreement.
20.03.23	Email	AG requested response to points made in email 28.12.22.
27.03.23	Email	AG followed up for a response to points made in email 28.12.22.
11.04.23	Email	AG submitted relevant representations.
25.04.23	Email	AG requested shapefiles relating to the plots over which Network Rail have an interest.
11.05.23	Email	AG followed up on response on shapefiles and the framework agreement.
12.06.23	Email	C&C confirmed the approach to protective provisions and an additional undertaking was agreed. C&C advised that discussions regarding access arrangements and property were also underway and that it may be beneficial to consider these matters jointly with the protective provisions.
13.06.23	Email	AG sent through a cost estimate and Basic Asset Protection Agreement ("BAPA") for signing.
20.07.23	Meeting	Discussed project and areas that Network Rail asset protection can assist with.
20.07.23	Email	Network Rail outlined actions from meeting and confirmed that the BAPA is acceptable and can be used to enter into a contract. Network Rail confirmed it would review its offer against the Protective Provisions.
20.07.23	Email	C&C sent through slides from presentation and issued minutes of meeting.
25.08.23	Email	AG provided draft Protective Provisions.
05.09.23	Email	AG confirmed that they had submitted a written representation.
11.09.23	Call	AG called to ask for a meeting to discuss the protective provisions and related agreements.
11.09.23	Email	AG followed up with an email suggesting a call.
13.09.23	Email	AG followed up with an email suggesting a call.
13.09.23	Email	C&C suggested availability for a call.
14.09.23	Email	AG confirmed their availability for a call.
18.09.23	Email	C&C confirmed the attendees for a call on 20.09.23.



20.09.23	Meeting	C&C and AG discussed the wording of the protective provisions and related agreements.
06.10.23	Email	AG confirmed that they were seeking instructions but required an amendment to the DCO stating there was to be no compulsory acquisition of Network Rail assets.
12.10.23	Email	AG provided an updated draft of the protective provisions and related agreements.
23.10.23	Email	C&C agreed to an amendment to the DCO stating there was to be no compulsory acquisition of Network Rail assets, and suggesting wording for an agreed position in the Deadline 5 SoCG tracker. C&C also highlighted the proposed changes application.
24.10.23	Email	AG agreed the wording for the SoCG tracker.
02.11.23	Email	AG provided an amended protective provision.
02.11.23	Email	C&C provided a draft SoCG.

3 Section 3 – Matters Agreed and Matters Not Agreed

- 3.1 It is agreed that the Consultation Report (Application Document Reference Number 6.1) submitted with the Application sets out the consultation and engagement undertaken between the Parties in relation to the Application.
- 3.2 Table 3.1 below contains a list of 'matters agreed' and a list of matters outstanding at the date of the Examination along with a concise commentary of what the items refers to and how it came to be agreed between the Parties.

Table 3.1: List of Matters Agreed and Outstanding

Matter	ABP's Position	Network Rail's Position	Status
<p>Any implications of the proposed IERRT on the operation of the rail network operated by Network Rail within and beyond the confines of the Port Immingham, including any effect on the availability of freight paths on the rail network and the need for any mitigation.</p>	<p>ABP does not consider that the IERRT would affect the operation of the rail network operated by Network Rail within and beyond the Port of Immingham. There is no effect on the availability of freight paths on the rail network.</p> <p>Protective provisions in favour of Network Rail are under active negotiation. ABP believe that negotiations will conclude prior to the end of the examination, following which the dDCO will adequately protect Network Rail's interests.</p>	<p>Agree that the IERRT would not affect the operation of the rail network operated by Network Rail within and beyond the Port of Immingham, subject to confirmation from Network Rail's engineers that the lighting scheme does not impact on Network Rail's operation of the network. There is no effect on the availability of freight paths on the rail network.</p>	<p>Agreed</p>
<p>Network Rail has noted there may be impacts on local level crossings (Kiln Lane Level</p>	<p>Table 1.1 and Section 2.3 of the Construction Environmental Management Plan</p>	<p>Network Rail requires provision to be made in the Construction Environmental</p>	<p>Agreed</p>

<p>Crossing and South Marsh Road Level Crossing) from rerouted traffic should the primary means of vehicles accessing the development site (via Queens Road Bridge) be unavailable.</p>	<p>submitted at Deadline 5 [REP5-018] provide that Network Rail will be a consultee for the Construction Traffic Management Plan. No construction traffic will use the South Marsh Road Level Crossing (even where the Queen's Road bridge is unavailable) and Network Rail will be consulted prior to any proposed use of the Kiln Lane Level Crossing by construction traffic.</p>	<p>Management Plan for protection of these level crossings.</p>	
<p>The wording of any protective provisions needing to be included in the dDCO.</p>	<p>Protective provisions in favour of Network Rail are under active negotiation. ABP believe that negotiations will conclude prior to the end of the examination, following which it is anticipated that the dDCO will adequately protect Network Rail's interests.</p>	<p>Agreed.</p>	<p>Agreed</p> 

Immingham Eastern Ro-Ro Terminal

Associated British Ports

4 Section 4 – Signatories

This Statement of Common Ground is agreed:

On behalf of Network Rail:

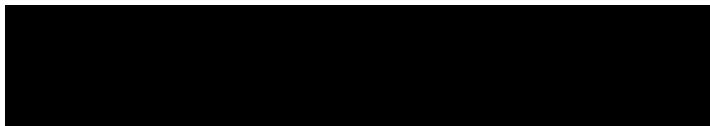
Name: Charlotte Jones

Signature: *Addleshaw Goddard*

Date: 9 November 2023

On behalf of ABP:

Name: Josh Bush

A large black rectangular redaction box covering the signature area for Josh Bush.

Signature:

Date: 09/11/2023

Glossary

Abbreviation / Acronym	Definition
ABP	Associated British Ports
BAPA	Basic Asset Protection Agreement
DCO	Development Consent Order
dDCO	Draft Development Consent Order
HoT	Heads of Terms
IERRT	Immingham Eastern Ro-Ro Terminal
Network Rail	Network Rail Infrastructure Limited
NSIP	Nationally Significant Infrastructure Project
PA 2008	Planning Act 2008
PINS	Planning Inspectorate
Ro-Ro	Roll-on/roll-off
SoCG	Statement of Common Ground
UK	United Kingdom