

IMMINGHAM EASTERN RO-RO TERMINAL



Statement of Common Ground Between Associated British Ports and Anglian Water Services Limited

Document 7.11

APFP Regulations 2009 – Regulation 5(2)(q)

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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) Anglian Water Services Limited (Anglian Water) (“AW”) – the supplier of water and water recycling services within the East of England from the Humber Estuary to Thames Estuary, and Hartlepool. Anglian Water is the statutory water and sewerage undertaker for the area within which the IERRT development is situated.

- 1.7 In this SoCG ABP and AW are collectively referred to as “the Parties”.

The Purpose and Structure of this Document

- 1.8 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.
- 1.9 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.
- 1.10 Section 1 of this SoCG is designed to act as a general introduction to the IERRT project and to the parties concerned.
- 1.11 Section 2 of this SoCG sets out a summary of the correspondence and engagement between the parties to date.
- 1.12 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.
- 1.13 The Tables in Section 3 use 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 AW 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.

Table 2.1 – Summary of Engagement

Date	Form of Contact	Summary with key outcomes and points of discussion
23.09.22	Email	AW issued their Scoping Opinion Response.
19.01.22	Email	ABP issued Statutory Consultation notification
23.02.22	Email	AW submitted S.42 Consultation Response
31.03.22	Email	ABP provided a progress update on the project and requested a Teams call to discuss points raised by AW.
19.04.22	Email	ABP followed up email on the 31.03.22 a request a Teams Meeting
09.05.22	Email	ABP followed up email on the 31.03.22 and 19.04.22 to request a Teams Meeting
18.05.22	Email	ABP followed up email on the 31.03.22, 19.04.22 and 09.05.23 to request a Teams Meeting
19.05.22	Email	AW advised that they are investigating the location of outfall.
01.06.22	Email	ABP followed up on AW response sent on 19.05.22.
13.06.22	Email	ABP sent through the draft protective provisions for review.
18.08.22	Email	ABP sent follow up to 13.06.22 letter.
04.10.22	Email	ABP sent follow up to 13.06.22 letter and 18.08.22 email.
04.10.22	Email	AW confirmed that Jacobs are acting on their behalf and should be the main contact going forward.
05.10.23	Email	ABP responded to arrange meeting with Jacobs.

17.10.22	Email	AW suggested possible dates and times for a call.
27.10.22	Email	ABP issued notification of Supplementary Statutory Consultation.
01.11.22	Email	AW confirmed that that Jacobs are acting on behalf of AW and told to delete the spatial planning email address from ABP's distribution list. For formal notifications send to AW registered office and copy in DS.
03.11.22	Meeting	ABP provided a project update. Specific items discussed were SSC, treated sewage, freshwater supply, AW assets and surface water run-off and drainage.
14.11.22	Email	AW provided latest Protective Provisions. AW noted that none of their assets would be affected by the scheme. AW requested confirmation on the approach ABP would take to surface water drainage in the DCO. Suggested that a SoCG could be agreed prior to submission.
14.11.22	Email	ABP provided notes of recent meeting for review.
28.11.22	Email	ABP provided draft drainage plans.
01.12.22	Email	ABP queried whether there were any legal agreements in respect of the decommissioned water main south of the Drury's site on Robinson Road at the Port of Immingham
05.12.22	Email	AW requested confirmation of the search area for legal agreements
05.12.22	Email	ABP responded to confirm search area.
09.03.23	Email & Letter	ABP issued the notice of acceptance of application.
12.04.23	Email	AW advised of a change of contact and asked if ABP were waiting for a response on anything.
12.04.23	Email	ABP provided latest correspondence and confirmed that there was nothing outstanding. ABP offered to discuss the project in more detail as PINS may expect a SoCG between AW and ABP.
19.04.23	Email	AW submitted relevant representations
17.07.23	Email	ABP responded to AW Relevant Representations and Identified three areas of difference between the AW template Protective Provisions. ABP hoped

		that this would be acceptable and advised that the attached SoCG had been drafted on this basis.
18.07.23	Email	AW noted response and advised that the information is being reviewed internally. AW requested details of the diameter and locations of largest AW assets within the area of works.
18.07.23	Email	ABP provided drawings of locations of AW assets and other potable supplies onto the port estate. ABP requested confirmation of the ownership of these assets. ABP confirmed that the protections for assets will be the same if they are AW's or ABP's.
07.08.23	Email	ABP provided revised draft of protective provisions for review and comment.
08.08.23	Email	AW confirmed that they were reviewing the protective provisions. AW noted that the SoCG refers to PP as agreed and requested that this was updated to 'In discussion'.
29.08.23	Email	AW requested dates for meeting to advise on decommissioned asset standoffs, diversions and contracts for supply and metering. This will then allow AW to clarify their position in regard to Protective Provisions.
04.09.23	Email	ABP requested a meeting for 13th/14th Sept.
05.09.23	Email	AW confirmed availability on 14th Sept.
14.09.23	Meeting	Meeting between ABP and AW to discuss AW assets on and around the port, concluding that the only AW infrastructure within the red line boundary is decommissioned. ABP team to provide amended protective provisions.
09.10.23	Email	Clyde & Co provide updated protective provisions to AW.
10.10.23	Email	AW confirm receipt of updated protective provisions.
20.10.23	Email	ABP ask if the protective provisions have been reviewed.
23.10.23	Email	ABP provides a draft SoCG.
07.11.23	Email	ABP ask if the draft SoCG has been reviewed.

09.11.23	Email	AW confirm that discussions on the draft protective provision and SoCG are taking place.
12.11.23	Email	ABP ask for an update.
13.11.23	Email	AW confirm that two of three amendments to the Protective Provisions are agreed, and that if the final comment can be resolved, the SoCG can be signed.
13.11.23	Email	ABP provide an updated SoCG reflecting the current status of negotiations.
14.11.23	Email	AW state that they will only be able to sign the SoCG once the Protective Provisions have been agreed.
12.12.23	Email	AW ask whether ABP has considered its comments on the PPs.
14.12.23	Email	ABP provide a further draft of the PPs.
04.01.24	Email	ABP ask for AW's comments on the PPs.
08.01.24	Email	AW provide ABP with a copy of its Deadline 8 submissions setting out why the PPs are not agreeable, asking for a revised SoCG reflecting this.
08.01.24	Email	ABP states that a revised SoCG will be provided following Deadline 8.
10.01.24	Email	ABP provides a revised draft SoCG.

3 Section 3 – Matters Agreed and Matters Not Agreed

- 3.1 It is agreed that Chapters [x] in the Environmental Statement (Application Document Reference Number 8.2) and the Consultation Report (Application Document Reference Number 6.1) submitted with the Application set out the consultation and engagement undertaken between the Parties in relation to the Application.
- 3.2 Table 3 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: List of Matters Agreed and Outstanding

Matter	AW's Position	ABP's Position	Status
Protective Provisions	<p>AW require the inclusion of Protective Provisions in the draft DCO in order to protect AW's assets and interests. The wording of such Protective Provisions has not been agreed due to the Applicant's suggested amendment to paragraph 55 in order to ensure that the protective provisions expire on the commencement of operation of the development.</p> <p>Anglian Water does not agree to the amendment to paragraph 55 as it creates doubt as to whether or not the protective provisions apply. Anglian Water is not aware of this addition to the provision forming part of any other DCO Anglian Water protective provisions. Other reasons for not agreeing to the amendment are provided below:</p>	<p>ABP agrees that the draft DCO should provide Protective Provisions in Anglian Water's favour. ABP has provided draft Protective Provisions which it believes will ensure that ABP may only exercise its powers under the DCO subject to sufficient protection and safeguards for AW's assets.</p> <p>Regarding ABP's amendment to paragraph 55, ABP believes that, as Anglian Water have no live assets within the red line boundary (and only one decommissioned asset), it would not be appropriate to require indemnities and protections in respect of Anglian Water's assets in perpetuity. The Applicant further notes that:</p> <ul style="list-style-type: none"> Anglian Water have not offered any positive arguments to support the Protective Provision operating in perpetuity, 	Not Agreed

	<p>1) If there is “no possibility of damage being caused to the decommissioned AW pipe, or any active AW apparatus outside of the red line boundary”, as the undertaker’s representative says, then what would be the purpose of including the limitation?</p> <p>2) Further, if that’s the reason, then why is it included in the protective provisions of the other protected parties in the DCO since their undertakings are directly affected?</p> <p>3) If the undertaker carries out any activity that does not engage the use of DCO powers, then (if one takes the time to look at the wording of them) the protective provisions would not be engaged in any event either; so again, what is the</p>	<p>relying simply on precedent. In contrast, due to the only Anglian Water asset within the red line boundary being a decommissioned pipe, the Applicant does not believe that Anglian Water’s proposals are reasonably necessary in order to protect their interests;</p> <ul style="list-style-type: none">• Whilst the Applicant notes that Anglian Water do not wish to set a precedent, this is also true of the Applicant; and• The Applicant also notes that other utility providers, such as Cadent Gas and Northern Powergrid have agreed that the protective provisions need not continue in perpetuity in order to provide adequate protections for their interests.	
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	4)	<p>purpose of including the limitation?</p> <p>This concept forms the basis of no other protective provision in any other DCO apart from this one: it is therefore entirely novel without there being a compelling argument as to why this project is so special compared with all other Nationally Significant Infrastructure Projects.</p>	<p>The IERRT development will have no impact on Anglian Water's assets, and the Applicant can see no justification for the Protective Provisions surviving beyond the end of the construction period.</p>	
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4 **Section 4 – Signatories**

This Statement of Common Ground is agreed:

On behalf of AW:

Name: Phil Jones

Signature:



Date: 11/01/2024

On behalf of ABP:

Name: Tom Jeynes – ABP Sustainable Development Manager

Signature:



Date: 11.01.24

Glossary

Abbreviation / Acronym	Definition
ABP	Associated British Ports
AW	Anglian Water Services Limited (Anglian Water)
DCLG	Department of Communities and Local Government (as it then was)
DCO	Development Consent Order
EIA	Environmental Impact Assessment
ES	Environmental Statement
IERRT	Immingham Eastern Ro-Ro Terminal
IOT	Immingham Oil Terminal
NSIP	Nationally Significant Infrastructure Project
PA 2008	Planning Act 2008
PINS	Planning Inspectorate
PP	Protective Provisions
Ro-Ro	Roll-on/roll-off
SoCG	Statement of Common Ground
SoS	Secretary of State for Transport
UK	United Kingdom