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Planning Act 2008 (as amended) – Section 55

Application by Associated British Ports for an Order Granting Development

Consent for the Immingham Green Energy Terminal

Adequacy of consultation response from North East Lincolnshire Council:

FTAO – Ted Blackmore (Case Officer)

I refer to the above matter and to your letter dated 22nd September 2023 seeking a representation on the adequacy of consultation.

The applicant has submitted a detailed 'Consultation Report' (ref. 5.1 – September 2023) with accompanying appendices referenced A to J. It is the view of North East Lincolnshire Council (NELC) that Associated British Ports (ABP) has, in accordance with the requirements of the Planning Act 2008, provided sufficient opportunities during the pre-application period to provide feedback and comment.

The submitted consultation report details two periods of statutory consultation comprising of:

- First Statutory consultation (9th January to 20th February 2023)
- Second Statutory consultation (24th May to 20th July 2023).

In addition to the statutory consultation undertaken, ABP have informally engaged with stakeholders from summer 2022 as part of a process of pre-statutory consultation. Furthermore, ABP have continued with ongoing dialogue with a number of stakeholders including NELC (see table 5 of the Consultation Report).

Prior to the statutory consultation period the Council commented, pursuant to s.47(2) of the Planning Act 2008, on the applicant's Draft Statement of Community Consultation (6th September to 3rd October 2022) and then a later second draft Statement of Community Consultation 3rd April to 5th May 2023.

In relation to the relevant sections of the Planning Act 2008, the Council comments as follows:

s42 (1) Duty to consult

the applicant must consult the following about the proposed application –

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- (a) such persons as may be prescribed,
(aa) The Marine Management Organisation (MMO).**
- (b) each local authority that is within section 43,**
- (c) the Greater London Authority if the land is in greater London, and**
- (d) each person who is within one or more of the categories set out in section 44(land interests).**

Appendices E (first consultation) and F (second consultation) of the Consultation Report lists the consultees (copies of letters sent are in appendices H and K) that have been consulted and Appendix A (a.5) and B (b.5) provides a 'compliance checklist' of the statutory consultation requirements and how the applicant has met them. It is therefore considered that the applicant has complied with s42(a).

Paragraph 4.1.28 and 5.1.16 of the Consultation Report details how the MMO have been consulted. It is therefore considered that s42(aa) has been complied with.

As above, Appendix A (a.5) and Appendix B (b.5) of the Consultation Report details how the statutory requirements have been satisfied. It is therefore considered that the applicant has complied with s42(b). Paragraph 4.1.29 onwards and 5.1.16 details which local authorities have been identified under section 43 for section 42(b) consultation.

S42(c) is not relevant.

Paragraph 4.1.26 and 5.1.16 of the Consultation Report (and its supporting appendices) explains how the applicant has considered section 44 consultees under section 42 and it is considered that the applicant has complied with s42(d).

S47 Duty to consult local community

- (1) The applicant must prepare a statement setting out how the applicant proposes to consult, about the proposed application, people living in the vicinity of the land.**
- (2) Before preparing the statement, the applicant must consult each local authority that is within section 43(1) about what is to be in the statement.**
- (3) The deadline for the receipt by the applicant of a local authority's response to consultation under subsection (2) is the end of the period of 28 days that begins with the day after the day on which the local authority receives the consultation documents.**

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(4) In subsection (3) “the consultation documents” means the documents supplied to the local authority by the applicant for the purpose of consulting the local authority under subsection (2).

(5) In preparing the statement, the applicant must have regard to any response to consultation under subsection (2) that is received by the applicant before the deadline imposed by subsection (3).

(6) Once the applicant has prepared the statement, the applicant must publish it—

(a) in a newspaper circulating in the vicinity of the land, and

(b) in such other manner as may be prescribed.

(7) The applicant must carry out consultation in accordance with the proposals set out in the statement.

As noted above, the applicant prepared two ‘Statements of Community Consultation (SOCC) – Draft for Comment’ and submitted this document for comment to NELC on 6th September 2022 and 3rd April 2023. The Council responded to the first draft in October 2022 and the second draft on 11th May 2023. It is therefore considered that the applicant has complied with subsections (1), (2), (3) and (4) of s47.

Following the submission of the Council’s comments on the first draft, the applicant revised the draft SOCC. In regard to the second draft SOCC the Council noted that additional consultation was welcomed. It is therefore considered that the applicant has complied with subsection (5) of s47.

The final SOCC was made available by the applicant for public inspection locally and was advertised by way of press notice in local newspapers (as detailed in para. 5.1.50 onwards). It is therefore considered that the applicant has complied with subsection (6) of s47.

NELC is satisfied that the applicant carried out consultation in accordance with the Statement of Community Consultation and has complied with subsection (7) of s47.

S48 Duty to publicise

(1) The applicant must publicise the proposed application in the prescribed manner.

(2) Regulations made for the purposes of subsection (1) must, in particular, make provision for publicity under subsection (1) to include a deadline for receipt by the applicant of responses to the publicity.



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Paragraph 5.1.50 onwards of the Consultation Report provide details of how the applicant has responded to the requirements of s48. It is therefore considered that the applicant has complied with subsection (1) and (2) of s48.

I trust that these comments are of assistance.

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