

Date: 3 May 2024
Our ref: GOOD/3004864.3
Your ref: TR030008
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Adrian Hunter
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Dear Sir,

**Planning Act 2008 (as amended) ("PA 2008"), the Infrastructure Planning (Examination Procedure) Rules 2010
Application by Associated British Ports ("the Applicant") for an Order Granting Development Consent for the Immingham Green Energy Terminal ("IGET")
Deadline 3 Cover Letter
Application Reference: TR030008**

As you know we act on behalf of the Applicant in relation to the application for a development consent order (the "**Application**") for the construction, operation and maintenance of the IGET and its Associated Development (the "**Project**"). The Application was originally submitted on 21 September 2023 and accepted for Examination on 19 October 2023, which has since commenced on 20 February 2024.

This letter has been prepared to accompany the Applicant's submissions to the Examining Authority ("**ExA**") at Deadline 3 (3 May 2024) of the Examination. These submissions are made in accordance with the Examination Timetable set out at Annex A of the Rule 8 Letter dated 28 February 2024 [**PD-007**].

1 Overview of Deadline 3 Submissions

- 1.1 Submissions made at Deadline 2 comprise the documents requested in the Rule 8 Letter, as well as other information, documents or updated documents either requested by the ExA or which the Applicant wishes to be submitted as part of the Examination.
- 1.2 Any updated documents supersede the documents previously submitted by the Applicant. The Guide to the Application submitted at Deadline 2 ("**D2**") has been updated to reflect all of the submissions and updates at Deadline 3.
- 1.1 The table below lists the documents submitted by the Applicant at Deadline 3.

Document Title	Doc Ref	Version
Guide to the DCO Application (Clean)	1.3	6
Guide to the DCO Application (Tracked)	1.3	6
Draft Development Consent Order (Clean)	2.1	4
Draft Development Consent Order (Tracked)	2.1	4
Draft Development Consent Order (Composite)	2.1	2

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Explanatory Memorandum (Clean)	2.2	4
Explanatory Memorandum (Tracked)	2.2	4
Book of Reference (Clean)	3.1	2
Book of Reference (Tracked)	3.1	2
Land Plans	4.5	2
Schedule of changes to the draft Development Consent Order	8.6	3
Table of Errata (clean)	9.10	3
Table of Errata (tracked)	9.10	3
Land Rights Tracker: Individual Landowners Compulsory Acquisition Schedule (Composite)	9.4.1	2
Land Rights Tracker: Statutory Undertakers Compulsory Acquisition Schedule (Composite)	9.4.2	2
Land Rights Tracker: Crown Land Schedule (Composite)	9.4.3	
Applicant's Statement of Commonality (Clean)	9.11	2
Applicant's Statement of Commonality (Tracked)	9.11	2
Draft Statement of Common Ground (" SoCG ") between the Applicant, Air Products and the North East Lincolnshire Council (Clean)	9.12	2
Draft Statement of Common Ground (" SoCG ") between the Applicant, Air Products and the North East Lincolnshire Council (Tracked)	9.12	2
Draft SoCG between the Applicant, Air Products and the Environment Agency (Clean)	9.13	2
Draft SoCG between the Applicant, Air Products and the Environment Agency (Tracked)	9.13	2
Draft SoCG between the Applicant, Air Products and National Highways (Clean)	9.14	2
Draft SoCG between the Applicant, Air Products and National Highways (Tracked)	9.14	2
Draft SoCG between the Applicant and the Marine Management Organisation (Clean)	9.16	2
Draft SoCG between the Applicant and the Marine Management Organisation (Tracked)	9.16	2
Draft SoCG between the Applicant, Air Products and Natural England (Clean)	9.17	2
Draft SoCG between the Applicant, Air Products and Natural England (Tracked)	9.17	2
Draft SoCG between the Applicant, Air Products and Historic England (Clean)	9.21	2
Draft SoCG between the Applicant, Air Products and Historic England (Tracked)	9.21	2
Draft SoCG between the Applicant and the Corporation of Trinity House (Clean)	9.22	2
Draft SoCG between the Applicant and the Corporation of	9.22	2

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Trinity House (Tracked)		
Draft SoCG between the Applicant, Air Products and Anglian Water Services Limited (Clean)	9.25	2
Draft SoCG between the Applicant, Air Products and Anglian Water Services Limited (Tracked)	9.25	2
Draft SoCG between the Applicant, Air Products and Cadent Gas Limited (Clean)	9.26	2
Draft SoCG between the Applicant, Air Products and Cadent Gas Limited (Tracked)	9.26	2
Draft SoCG between the Applicant, Air Products and Cadent Gas Limited (Clean)	9.26	2
Draft SoCG between the Applicant Air Products and Northern PowerGrid (Tracked)	9.27	2
Applicant's Response to the Examining Authority's Action Points from Issue Specific Hearing 4 (ISH4)	9.53	1
Applicant's Response to the Examining Authority's Action Points from Issue Specific Hearing 5 (ISH5)	9.54	1
Applicant's Response to the Examining Authority's Action Points from Issue Specific Hearing 6 (ISH6)	9.55	1
Applicant's Response to the Examining Authority's Action Points from Issue Specific Hearing 7 (ISH7)	9.56	1
Supplemental Analysis of the Assessment of Impacts on the Lincolnshire Wolds	9.57	1
Applicant's Response to the Examining Authority's Action Points from Compulsory Acquisition Hearing (CAH1)	9.58	1
Written Summaries of the Applicant's Oral Case at Issue Specific Hearing 4 with Appendices	9.59	1
Written Summaries of the Applicant's Oral Case at Issue Specific Hearing 5 with Appendices	9.60	1
Written Summaries of the Applicant's Oral Case at Issue Specific Hearing 6 with Appendices	9.61	1
Written Summaries of the Applicant's Oral Case at Issue Specific Hearing 7 with Appendices	9.62	1
Written Summaries of the Applicant's Oral Case at Compulsory Acquisition Hearing 1 with Appendices	9.63	1
Report on traffic matters related to IGET for National Highways	9.65	1
Schedule of Changes to the Book of Reference	9.66	1
Deadline 3 Cover Letter	9.70	1
Initial draft Section 106 Agreement for payment of contribution towards woodland compensation	9.71	1
Initial draft Section 106 Unilateral Undertaking relating to habitat compensation at Skeffling	9.72	1

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- 2.1 The Applicant wrote to the ExA on 26 March 2024 [**REP2-027**] notifying it of its intention to apply for four changes to the Application, in accordance with the Planning Inspectorate's 'Advice Note Sixteen: Requests to change applications after they have been accepted for examination' ("**AN16**"). The Applicant's formal submission of its Change Application and accompanying documentation has been submitted to the ExA alongside the Applicant's Deadline 3 submissions, but have been made under separate cover, and are listed in the Applicant's covering letter to its Change Application [**TR030008/EXAM/10.5**].
- 2.2 For avoidance of doubt, the Changes applied for are included in the draft Development Consent Order [**TR030008/APP/2.1**] submitted with the D3 submissions, but the dDCO indicates by way of footnote that the wording is only to be retained in the DCO if the ExA decides to accept the relevant changes to which the drafting in the dDCO relates, otherwise the wording relating to the Changes is to be deleted. The relevant sections of the dDCO where the wording would be changed as a result of the ExA's acceptance for Examination of some or all of the Changes are:
- (a) At Schedule 3 (Deemed Marine Licence), paragraph 3(2)(a)(iii), the drafting indicates that if Change 1 were to be accepted, then reference to 'two monopiles' should be replaced with reference to 'four monopiles'.
 - (b) Four drafting changes are made to address Change 3 which, if accepted, ensures the temporary possession powers under the dDCO would apply to the additional area of temporary possession land and Air Products would have the benefit of specified dDCO powers in respect of that land:
 - (i) At Part 1, Article 2 (interpretation) the definition of "the undertaker" has been updated at subparagraph (b) to include reference to the two new plot numbers 5/45 and 6/19 which comprise the additional area of temporary possession land;
 - (ii) Article 31(1)(a)(i) is amended to include the relevant sheet references for the two new plot numbers 5/45 and 6/19;
 - (iii) Article 46(4) is amended to include reference to the two new plot numbers 5/45 and 6/19; and
 - (iv) A new row has been inserted into Schedule 13 to refer to the new plot numbers 5/45 and 6/19 confirming that temporary possession may be taken for any further associated development to which paragraph 11 of Part 1 (authorised development) of Schedule 1 (authorised project) refers and the ancillary works to which Part 2 (ancillary works) of Schedule 1 (authorised project) refers.
- 2.3 The proposed amendments to the dDCO in respect of Change 3, if accepted, also necessitate two minor changes to the Explanatory Memorandum [**TR030008/APP/2.2**] submitted with the D3 submissions. The Explanatory Memorandum indicates by way of footnote that the wording is only to be retained if the ExA decides to accept the relevant changes to which the drafting in the Explanatory Memorandum relates, otherwise the wording relating to the Changes is to be deleted. The relevant changes are:

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- (a) Updates to paragraph 7.4.12(c) which relates to the definition of “the undertaker” to include reference to the two new plot numbers 5/45 and 6/19; and
- (b) Updates to paragraph 11.1(b) which relates to Article 46 to include reference to the two new plot numbers 5/45 and 6/19.

2.4 In addition to the above, the updated Explanatory Memorandum provided with the D3 submissions reflects other changes to the draft Development Consent Order.]

2.5 [Where affected by the changes which the Applicant is requesting to be included in the Examination, the Applicant has submitted only one version of documents at D3 on the assumption that the Change Application will be accepted. However, if the ExA does not accept the Changes for Examination, the Applicant will resubmit fresh versions to these documents at the next deadline, being 4 June 2024 (Deadline 4).]

3 **Updates to Land Plans [APP-015] and Book of Reference [APP-008]**

3.1 In connection with the Applicant’s Change Application submitted under separate cover, revised Land Plans **[TR030008/APP/4.5]** and a revised Book of Reference (submitted in clean and tracked) **[TR030008/APP/3.1]** are submitted. These include changes made in relation to the Applicant’s Proposed Changes relating to the extension of Order Limits to include land adjacent to Work No. 7 where powers of temporary possession are proposed during the construction period (Proposed Change 3) (and are more particularly described in Appendix 1 of the Proposed Changes Application Report **[TR030008/EXAM/10.6]**).

3.2 For clarity, the Applicant notes that other changes have been made to the Land Plans and the Book of Reference which are unrelated to the Proposed Changes as follows:

- (a) New Inset Sheets 5C and 7C are included in the Land Plans responding to hearing action CAH1.03 which requested an inset map of the Queens Road properties;
- (b) Various changes have been made to land interests within the Book of Reference as a result of ongoing diligent inquiry. The Schedule of Changes to the Book of Reference **[TR030008/EXAM/9.66]** provides an explanation as to those changes.

3.3 For completeness, the Applicant notes that the Schedule of Changes **[TR030008/EXAM/9.66]** records a change in a land interest set out in Part 1 of the Book of Reference (being a Category 1 or 2 interest), however, it does not record any consequential changes to Parts 2-5 of the Book of Reference. Where there are changes to Parts 2-5 which are not related to a change to Part 1, those changes are recorded in the Schedule of Changes. This approach follows standard practice used on other schemes which seeks to ensure the document remains user friendly for the ExA.

3.4 In the event that one or more of the Applicant’s Proposed Changes are not accepted into the Examination, further revised Land Plans and Book of Reference would be submitted to the ExA at an appropriate Deadline to reflect the ExA’s position.

4 **Amendments to Street Works and Accesses Plan [APP-016], Stopping Up and Restriction of Use of Streets and Public Rights of Way Plan [APP-017] and Traffic Regulations Measures Plan [APP-018]**

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- 4.1 The Applicant's Deadline 2 cover letter [**REP2-001**] noted that the Applicant is engaging with the North East Lincolnshire Council ("**NELC**") highways team in relation to its various representations on the Application and it was anticipated that revised versions of the above plans showing the minor adjustments requested by NELC would be submitted at Deadline 3. In oral submissions at ISH6, counsel for the Applicant noted that whilst such changes respond to NELC concerns and are minor in nature, they constitute changes nonetheless and therefore the process as set out in PINS' AN16 is engaged (see the Applicant's Written Summaries of the Applicant's Oral Case at Issue Specific Hearing 6 with Appendices [**TR030008/EXAM/9.61**] in response to Agenda Item 7 (Traffic and Transport) sub-item (iii) [**EV9-001**]). Accordingly, the Applicant confirms that a further Change Notification ("**the Further Change Notification**") is proposed to be made. The minor nature and scale of the Further Changes means that they are not so substantial as to constitute a materially different project.
- 4.2 By way of high-level summary, the Further Change Notification will address three minor changes requested by the NELC highways team:
- (a) Adjustments to the shape of two accesses from the A1173 to the West Site to accommodate the NELC highways team's requirements related to the design;
 - (b) A beneficial change by way of minor reductions in the area of land proposed to be permanently stopped up adjacent to Laporte Road following consultation with the NELC highways team on the detailed design of the retained verges and visibility splays;
 - (c) Adjustments to the way that the speed limit change agreed with the NELC highways team (shown on the Traffic Regulations Measures Plan [**APP-018**]) is to take effect along Laporte Road. The NELC highways team has requested that the limits be consolidated to better reflect existing controls and remove what would be a short section of 60mph limit. It is therefore proposed that the stretch of highway subject to the 30mph limit will be reduced, and a 40mph limit introduced for a new stretch of highway. This will require a short extension (around 280m) of the Order limits along the public highway of Laporte Road so as to encompass the new 40mph section (no powers of compulsory acquisition are required and therefore the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 are not engaged).
- 4.3 It has also been brought to the Applicant's attention that an area of land at the Kings Road entrance to the West Site was adopted as highway maintainable at public expense in 2017 under a section 278 agreement with the previous owners. This is not reflected in the NELC's highway boundary map (such that the design team were unaware of this area of adoption). Accordingly, a small additional area of land within Work No. 7 is proposed to be stopped up (this is already within the ownership of the Applicant and therefore no powers of compulsory acquisition are required). This has been agreed with NELC in principle.
- 4.4 Further, as a result of engagement with both the Environment Agency and with one of the owners of part of land within Work No. 9, the Applicant is proposing a further beneficial change, being the reduction of the extent of Work No. 9 (over which temporary possession powers are sought) and therefore a reduction in the extent of the Order limits.

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4.5 In addition, as a result of further engagement with statutory consultees alongside detailed information obtained from contractors engaged on the Project, two updates to information contained within the Environmental Statement are proposed which would lead to an adjustment to the mitigation described in the Outline Construction Environmental Management Plan [**REP2-004**] (relating to ground protection and noise). Whilst these updates and adjustments may not typically be viewed as formal changes to the Application, the Applicant proposes to undertake targeted consultation on the proposals on a precautionary basis and to ensure that relevant stakeholders and statutory consultees have the opportunity to comment.

4.6 The Applicant is therefore finalising the proposed further changes and associated information. As with the first Change Notification, the Applicant intends to undertake consultation alongside the submission of its Further Change Notification. It intends shortly to submit a letter to PINS setting out an explanation of the further minor changes proposed, the rationale for the changes, the proposed approach to and timetable for consultation and an explanation of how it fits within the existing Examination timetable, together with confirmation that the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 are not engaged, in order to provide PINS and the ExA with the opportunity to comment ahead of commencement of consultation.

5 **Early Works Strategy**

5.1 In the Applicant's response to Q1.13.1.2 [**REP1-034**], an update was provided as to the Applicant's proposed early works strategy which confirmed that the Applicant proposed to submit separate planning applications for certain early works and intended to submit a brief report of the environmental effects of the early works and the Project (together with all other cumulative developments), demonstrating that the effects are not materially different, at Deadline 3.

5.2 By way of update, an application under the Town and Country Planning Act 1990 has been submitted to and validated by NELC (reference DM/0326/24/FUL) for test piling on the West Site to inform the piling methodology and a decision is anticipated on or around Deadline 4. Discussions with NELC as to further applications are ongoing and a second application (for site preparation works for the West Site and East Site) is being prepared. In light of this latest timetable, the Applicant proposes to provide an update on the test piling and site preparation applications at Deadline 4 together with a brief report of the implications of those works for the assessment of environmental effects undertaken and reported in the ES for the DCO, demonstrating that the likely significant effects are not materially different to those reported. The Applicant also proposes to provide an update on any further applications at that stage.

6 **Update on engagement between the Applicant and CLdN Ports Killingholme Limited ("CLdN")**

6.1 CLdN provided their proposed draft protective provisions in respect of the Project to the Applicant on 8 April 2024. The Applicant has considered the draft provisions and discussed them with CLdN at a collaborative meeting held on 16 April 2024. The parties have agreed a way forward that is likely to lead to CLdN's concerns being addressed in a manner that is acceptable to them and discussions are ongoing to finalise a resolution. The Applicant now has action to formally respond to CLdN's draft Protective Provisions. This will be done

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shortly. CLdN and the Applicant will update the Examining Authority on progress at Deadline 4.

7 **Draft Section 106 Agreements**

7.1 As discussed in Issue Specific Hearings 4 and 5, the Applicant is submitting with this letter drafts of an Agreement and a Unilateral Undertaking both made under S106 of the Town and Country Planning Act 1990. The Initial draft of the Section 106 Agreement for payment of contribution towards woodland compensation [TR030008/EXAM/9.71] was discussed at Issue Specific Hearing 5 (see 14:40 – 16:41 of [EV7-002]) and is being submitted to reflect the Applicant's proposed mechanism of securing an appropriate contribution to NELC's woodland expansion planting scheme at Battery Street Playing Field, noting that discussions with NELC are ongoing regarding the quantum of provision (see paragraph 1.1.10 in the draft Woodland Compensation Plan [REP1-068]). The initial draft of the Section 106 Unilateral Undertaking relating to habitat compensation at the Outstrays to Skeffling Managed Realignment Scheme ("**Skeffling**") [TR030008/EXAM/9.72] was referred to at Issue Specific Hearing 4 (see 25:33 – 26:19 of [EV6-002]). Its purpose is to secure the compensation referred to in the Without Prejudice Report to inform Habitats Regulations Assessment (HRA) Derogation [REP1-008] in circumstances where an adverse effect on integrity of the European Sites from the Project (either alone or in combination with other plans and projects) has not been ruled out by the Secretary of State.

8 **Submissions relating to Action Points for Issue Specific Hearings ("ISH") 4 – 7 and Compulsory Acquisition Hearing ("CAH") 1**

8.1 In relation to the ExA's publication of the Action Points from ISH 4 - 7 and CAH 1, we have prepared documents to collate our responses to each of the ISH hearing actions (see "Applicant's Response to the Examining Authority's Action Points from Issue Specific Hearing 4" [TR030008/EXAM/9.53], "Applicant's Response to the Examining Authority's Action Points from Issue Specific Hearing 5" [TR030008/EXAM/9.54], "Applicant's Response to the Examining Authority's Action Points from Issue Specific Hearing 6" [TR030008/EXAM/9.55], "Applicant's Response to the Examining Authority's Action Points from Issue Specific Hearing 7" [TR030008/EXAM/9.56] and "Applicant's Response to the Examining Authority's Action Points from Compulsory Acquisition Hearing 1 (CAH1)" [TR030008/EXAM/9.58]). These documents should be read alongside the Applicant's Written Summaries of ISH 4 – 7 and CAH 1 ([TR030008/EXAM/9.59], [TR030008/EXAM/9.60], [TR030008/EXAM/9.61], [TR030008/EXAM/9.62] and [TR030008/EXAM/9.63]) which cross-reference these documents and have the summary of the Applicant's submissions made and additional information that was referred to as part of the discussions.

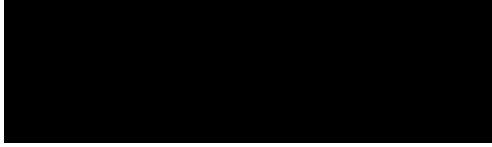
8.2 With regard to the photomontages (i.e. the additional viewpoints and photomontages for Viewpoints 3, 4 and 11 requested by the ExA as Action Point 2 from ISH 5 [EV7-010]), modelling and rendering of the elements shown within the viewpoints has taken more time than anticipated therefore the photomontages will be provided at Deadline 4 or, should they be completed earlier, in advance of Deadline 4.

The Applicant would be pleased to answer any queries which you may have on this letter.

We are copying this letter to Charles Russell Speechlys LLP, who act for Air Products (BR) Limited.

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Yours sincerely



Bryan Cave Leighton Paisner

Enclosure

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