



Immingham Green Energy Terminal

9.75 Applicant's Responses to Documentation Received at
Deadline 3
Infrastructure Planning (Examination Procedure) Rules 2010
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1 Introduction

Overview

- 1.1 This document has been prepared to accompany an application made to the Secretary of State for Transport (the "Application") under Section 37 of the Planning Act 2008 ("PA 2008") for a development consent order ("DCO") to authorise the construction and operation of the proposed Immingham Green Energy Terminal ("the Project").
- 1.2 The Application is submitted by Associated British Ports ("the Applicant"). The Applicant was established in 1981 following the privatisation of the British Transport Docks Board. The **Funding Statement [APP-010]** provides further information.
- 1.3 The Project as proposed by the Applicant falls within the definition of a Nationally Significant Infrastructure Project ("NSIP") as set out in Sections 14(1)(j), 24(2) and 24(3)(c) of the PA 2008.

The Project

- 1.4 The Applicant is seeking to construct, operate and maintain the Project, comprising a new multi-user liquid bulk green energy terminal located on the eastern side of the Port of Immingham (the "Port").
- 1.5 The Project includes the construction and operation of a green hydrogen production facility, which would be delivered and operated by Air Products (BR) Limited ("Air Products"). Air Products will be the first customer of the new terminal, whereby green ammonia will be imported via the jetty and converted on-site into green hydrogen, making a positive contribution to the United Kingdom's ("UK's") net zero agenda by helping to decarbonise the UK's industrial activities and in particular the heavy transport sector.
- 1.6 A detailed description of the Project is included in **Environmental Statement ("ES") Chapter 2: The Project [REP3-022]**.

Purpose and Structure of this Document

- 1.7 This document contains the Applicant's responses to documentation submitted by Interested Parties at Deadline 3.

2. Applicant's Responses to Documentation Received at Deadline 3

Environment Agency

REP3-105

Introduction

This document has been produced in response to the Environment Agency's Deadline 3 Submission 'Comments on any other information and submissions received at Deadline 2' **[REP3-105]**. This document responds to each point raised in the Environment Agency's comments on the information and submissions received at Deadline 2.

Table of Errata (Tracked) [REP1-020]

The Applicant notes and welcomes the Environment Agency's response.

Applicant's response to ExQ1 on Biodiversity [REP1-026]

The Water Framework Directive ("WFD") Status for the North Beck Drain was mistakenly stated to be of 'low' value in **[REP1-026]**. The Applicant confirms that as per Item 20 of the Errata List **[REP1-020]** this receptor is considered a high importance receptor, given the status of the North Beck Drain as being a high certainty chalk river and therefore a priority Habitat under the UK Biodiversity Action Plan. The potential impact of the Project (Work No. 9) on this watercourse is low and the effects remain not significant, as stated in **ES Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060]**.

Applicant's response to ExQ1 on Flood Risk [REP1-029]

The Environment Agency's position and the Applicant's response regarding matters of flood risk is provided within the **Statement of Common Ground ("SoCG")** submitted at Deadline 3 **[REP3-046]**. The Applicant will continue engagement with the Environment Agency to resolve any outstanding matters pertaining to flood risk and present this in future iterations of the **SoCG**.

Applicant's response to the ExA's First Written Questions – responses to Q1.18 Development Consent Order (DCO) [REP1-039]

The Environment Agency draws certain inferences from the Applicant's response to Q1.18 and states that the significance of any contamination and the need for mitigation to mitigate risk can only be established once appropriate detailed site investigation data has been collected to support a risk assessment, which would then inform the remediation strategy secured by **Requirement 15 [REP3-004]**.

The Applicant highlights that the **Outline Remediation Strategy ("ORS") [APP-217]** already sets out the mitigation measures required by way of remediation for the terrestrial works, based on data obtained from ground investigation work (as explained in **Paragraph 1.1.3 of the ORS**). As explained in **Sections 3.2 and 3.3 of the ORS**, it has been determined from that ground investigation work that remediation works are required in respect of Work No. 3 and Work No. 5. No remediation works are expected to be required for the remainder of the terrestrial works, which will be subject to the requirements of **Section 4** (which addresses procedures for any unanticipated contamination). The **ORS** will inform the preparation of the final remediation strategy to be submitted and secured under **Requirement 15**.

As a result of the Environment Agency's position as stated above, the Environment Agency is of the view that "*remedial work in respect of any contamination*" should be deleted from the exclusions under the definition of 'commence'. It also considers that the remedial works to be undertaken under **Requirement 15** must fall to be controlled under the Construction Environmental Management Plan (CEMP) to be submitted and approved under **Requirement 6** and therefore that **Requirement 15** should be amended to substitute the phrase "*may be undertaken*" with "*may be commenced*".

The Applicant does not intend to undertake any remediation works pursuant to the DCO other than in accordance with a remediation strategy that has been submitted and approved pursuant to **Requirement 15**. It is also content for the final CEMP to be submitted and approved pursuant to **Requirement 6** before those remediation works are undertaken.

In summary, the Applicant is therefore content to accept the Environment Agency's position on **Requirement 15** and proposes that the **dDCO [REP3-004]** is amended as follows:

"15(1) No ~~below ground works comprised in any part of Work No. 1 outside of the UK marine area, Work No. 2, Work No. 3, Work No. 4, Work No. 5, Work No. 6 or Work No. 7~~ may be commenced ~~undertaken~~ until a written remediation strategy applicable to that part to deal with any contamination of that part which is likely to cause significant harm to persons or pollution of controlled waters or the environment has been submitted to and approved by the relevant planning authority, following consultation with the Environment Agency on matters related to its function."

The Applicant is also content for the definition of 'commence' to be amended to remove reference to "*remedial work in respect of any contamination or other adverse ground conditions*". Please see the answer to **Q2.18.DCO 2.1** in the **Applicant's Responses to the Examining Authority's Second Round of Written Questions [TR030008/EXAM/9.77]** which also addresses the definition of 'commence'.

These changes will be addressed in version 5 of the **dDCO**, submitted at Deadline 4 **[TR030008/APP/2.1 (5)]**.

Outline Construction Environmental Management Plan, Version 2 (26 March 2024) [REP2-005]

The Applicant welcomes confirmation that the issue raised in Paragraph 3.10 of the Environment Agency's Relevant Representation **[RR-010]** is now deemed to have been adequately addressed.

The **Outline Construction Environmental Management Plan, Version 2 (26 March 2024) [REP2-005]** contains a typographic error on Page 57. An indicative route of the bridleway diversion is presented in **Appendix 6** of the **Applicant's Responses to the Examining Authority's First Written Questions – Responses to Q1.4. Design [REP1-025]**, rather than **Appendix 7** as indicated previously in **[REP2-005]**. This will be corrected in a future iteration of the document.

Appendix B Outline Soils Management Plan (oSMP)

The Applicant notes and welcomes the Environment Agency's response.

Protective Provisions and Legal Agreement

The Applicant notes the response and awaits further updates on Protective Provisions and the Legal Agreement in due course. The Applicant will continue engagement on the **Statement of Common Ground** with the Environment Agency.

Natural England

REP3-112

The Applicant can confirm that in all instances where further information with respect to Amber issues has been requested by Natural England (“NE”) this has been provided at Deadline 3. This was provided either within the **Statement of Common Ground with Natural England [REP3-052]** and/or the updated **Shadow Habitats Regulations Assessment [REP3-032]**. Specific signposting of the information is provided below.

NE Comment	Topic	Evidence Provided
NE3	HRA screening comments – In-combination assessment at the screening stage	[REP3-032], Paragraph 3.1.4
NE4	HRA – The potential for an AEol due to the direct loss of qualifying habitat	[REP3-032], Paragraphs 4.3.6 and 4.3.7 Further information with respect to indirect intertidal losses has also been provided at Paragraph 4.5.10 .
NE19C	Airborne Noise and Visual Disturbance to birds during construction – Ambient noise levels	[REP3-032], Paragraph 4.10.23, Table 27 and Appendix E
NE19D	Airborne Noise and Visual Disturbance to birds during construction – The use of a 200m disturbance buffer	[REP3-032], Paragraph 4.10.31 Additional detail with respect to the use of a GPS system was also provided to Natural England via email on 26 April 2024. This text has also been copied below for ease of reference: The restriction distance will be controlled through a digital GPS boundary (as

		opposed to a physical marker due to navigational safety procedures) which contractors can effectively set as a spatial demarcation in which works can/cannot take place. It will then be possible to monitor compliance through reviewing the respective contractor GPS data as the works progress.
NE21A	Airborne Noise and Visual Disturbance to birds during construction – Proposed mitigation – Assessment of proposed mitigation	[REP3-032], Paragraph 4.10.23, Table 27 and Appendix E
NE21C	Airborne Noise and Visual Disturbance to birds during construction – Proposed mitigation – The use of GPS and markers to improve certainty about distances	<p>[REP3-032], Paragraph 4.10.31</p> <p>Additional detail with respect to the use of a GPS system was also provided to Natural England via email on 26 April 2024. This text has also been copied below for ease of reference:</p> <p>The restriction distance will be controlled through a digital GPS boundary (as opposed to a physical marker due to navigational safety procedures) which contractors can effectively set as a spatial demarcation in which works can/cannot take place. It will then be possible to monitor compliance through reviewing the respective contractor GPS data as the works progress.</p>

NE21D	Airborne Noise and Visual Disturbance to birds during construction – Proposed mitigation – cold weather construction restriction	<p>[REP3-032], Paragraph 4.10.31 has been updated to reflect the Applicant's proposed amendment to this mitigation measure.</p> <p>The proposed cold weather construction restriction has now been updated to reference Mean Low Water Springs to provide greater certainty with respect to the distance of construction activity from exposed mudflat.</p>
NE21E	Airborne Noise and Visual Disturbance to birds during construction – Proposed mitigation – cold weather construction restriction	<p>[REP3-032], Paragraph 4.10.31 has been updated to reflect the Applicant's proposed amendment to this mitigation measure.</p> <p>The proposed cold weather construction restriction has now been updated to reference Mean Low Water Springs to provide greater certainty with respect to the distance of construction activity from exposed mudflat.</p>
NE32	Air quality impacts – saltmarsh critical loads	[REP3-032], Paragraphs 4.7.18 and 4.7.19
NE33A	Air quality impacts – marine vessels	[REP3-052], ID NE33A
NE36	HRA – In-combination assessment at appropriate assessment stage general comments	[REP3-032], Paragraph 4.14.4

NE38	HRA – Cumulative underwater noise disturbance and barrier effects to grey seal	<p>[REP3-032], Paragraphs 4.11.29 to 4.11.36 relate to effects on grey seal and common seals through injury.</p> <p>[REP3-032], Paragraphs 4.11.37 to 4.11.43 relate to effects on grey seal and common seals through disturbance.</p>
NE39	HRA – in-combination assessment – visual and noise disturbance to SPA birds	Updated information with respect to bird mitigation measures is as referenced as per the above issues (NE19D, NE21A, NE21C, NE21D, NE21E).
NE54	HRA – air quality – accidental releases of ammonia	[REP3-032], Paragraph 4.7.24

North East Lincolnshire Council

REP3-104

At Deadline 3 North East Lincolnshire Council (“NELC”) made the following comments **[REP3-104]** in regard to traffic and transportation.

“NELC Highways – NELC Highways team continue to work with the applicant to overcome issues raised and detailed in the SOCG.”

Further drawings and associated information were submitted to NELC on 17 May 2024, including the following:

- Drawings showing the potential layout of the temporary and permanent accesses
- Drawings showing the proposed changes to the speed limits on Laporte Road
- Details on how each access will operate in terms of vehicle movements
- Details on the start point for the proposed diversion of the Public Right of Way
- Clarification regarding the areas of highway to be stopped up on Laporte Road
- Junction capacity analysis of the local road network

Proposed adjustments to two accesses (Access AB and Access AC as shown on dwg 60673509-ACM-HJN-ZZ-DR-CH-0015), the speed limit changes on Laporte Road and the area of highway to be stopped up on Laporte Road (together with a proposed new area of stopping up at Access AA as shown on dwg 60673509-ACM-XXX-ZZ-DR-CH-0001 and 0002) are currently being consulted upon as part of the Applicant's proposed further changes (notified to the ExA on 9 May 2024 **[AS-031]**).

The Applicant is arranging a meeting with NELC to discuss matters further.

PD Ports

REP3-113

(Italicised text summarises the point made by PD Ports, while non-italicised text supplies the Applicant's response).

Vehicle Route

With regard to the alternative construction techniques, PDPS has raised further queries with the Applicant regarding how this order of preference may be secured and what commitments can be given in this respect in the DCO (protective provisions / requirements). If these installation methods and associated traffic management is to be subject to requirements, then PDPS would wish to be expressly noted as a consultee. Responses from the applicant are awaited.

In response to the above comment from PD Ports ("PDPS"), reference is made to the summary of the Applicant's oral submissions made at Issue Specific Hearing 5 ("ISH5") item 7 **[REP3-071]** and at ISH6 item 7 **[REP3-072]**; to the updated **DCO [REP3-004] (Requirement 8 (Schedule 2))**; and to the section on 'Culvert' below.

Whilst section 6.1 of the Outline Construction Traffic Management Plan [APP223] provides for a formal process of liaison between all relevant parties, PDPS is not specifically named. There is therefore no guarantee that PDPS will be consulted.

Requirement 7 of Schedule 2 of the draft Development Consent Order provides that that the project may not commence before the CTMP is approved in general accordance with the outline, however it does not name PDPS as a consultee, therefore there is no guarantee that PDPS will be consulted.

The update to the **Outline Construction Traffic Management Plan** to be submitted at Deadline 4 **[TR030008/APP/6.7 (4)]** includes an amendment to **Section 6.2** to ensure a process of liaison with PDPS will be established prior to construction commencing on site and that PDPS will be kept informed of any relevant construction activities including road closures, diversions and works to the highway, with at

least one month's notice being given of any such activity that has the potential to impact its operations, as is currently included for Royal Mail.

Under **Requirement 7 of Schedule 2** of the **draft DCO [REP3-004]**, the final Construction Traffic Management Plan shall be approved by the local planning authority and shall be in general accordance with the **Outline Construction Traffic Management Plan**. The need for any further consultation as part of that review process shall be determined by the local planning authority.

Temporary access off Laporte Road

The traffic movements to the construction compound identified may have the effect of creating queuing traffic which might obstruct access to PDPS's site, especially if barrier control or checkpoints are installed. It is therefore important that PDPS are identified as a consultee in the requirements relating to the approval of the final details of the Construction Traffic Management Plan.

Reference is made to the summary of oral submissions made at ISH5 item 5 **[REP3-071]**, where it is identified that the temporary Work No. 9 access will generate fewer than six HGVs per hour and so will demonstrably have no material or adverse impacts on the capacity or operation of Laporte Road or on existing users of Laporte Road. Under **Requirement 7 of Schedule 2** of the **draft DCO [REP3-004]** and as noted above, the final Construction Traffic Management Plan shall be approved by the local planning authority. The need for any further consultation as part of that review process shall be determined by the local planning authority.

Culvert

Further queries have been raised with the Applicant in relation to how such assurances/commitment will be secured in the DCO. The highways works associated with the culvert design do not appear to form part of proposed requirement 8 (Highways Works); it is suggested that approval of the culvert works are added to this requirement and that PDPS should be named as a consultee

Reference is made to the summary of oral submissions made at ISH6 item 7 **[REP3-072]** and to the updated **DCO [REP3-004]** (**Requirement 8 (Schedule 2)**).

The updated **DCO** submitted at Deadline 3 **[REP3-004]** includes an amendment to **Requirement 8** which adds a further obligation in relation to the underground culvert forming part of Work No. 4. Before construction of that Work commences, details of design and construction methodology must be submitted to and approved by the local planning authority following consultation with the highway authority.

As explained at ISH6 **[REP3-072]**, when the design is agreed with the local highway authority, the Applicant will consider the traffic impacts in preparing the construction design and methodology. The local highway authority will need to be satisfied that those impacts are justified when considering and approving the submission under **Requirement 8**.

The local highway authority is considered the appropriate body to review and approve the culvert design and methodology as the party with statutory highways responsibility for Laporte Road. It is not considered appropriate for PDPS, which does not have any statutory remit, to be named as a consultee.