

By Email

Mr Grahame Gould
Lead member of the Panel of
Examining Inspectors

National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

Our Ref
BJG/10276966

Your Ref
TR030007

Date
10 January 2024

Dear Mr Gould

Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended – Rule 17

Application by Associated British Ports (“the Applicant”) for an Order Granting Development Consent for the Immingham Eastern Ro-Ro Terminal

Rule 17 Request for Further Information regarding Statements of Common Ground (“SoCGs”)

Further to your letter dated 9 January 2024 requiring the Applicant to provide an update as to when the ExA can expect the final and signed versions of all of the outstanding SoCGs to be submitted, and further to the SoCG Tracker document submitted by the Applicant at Deadline 8 (Application Document 10.2.9), the position with regard to the outstanding SoCGs with Interested Parties (“IPs”) is as follows:

Able Humber Ports Limited (“Able”)	The Applicant provided a draft SoCG to Able on 4 September 2023 and has not received a response. The Applicant notes that Able have not participated in the examination to any great extent but has nevertheless emailed the solicitors for Able asking them to clarify their client’s position as a matter of urgency. The Applicant is unable to clarify to the ExA when a signed SoCG can be expected.
Anglian Water	The latest draft of the SoCG was provided to Anglian Water on 13 November, with updated Protective Provisions sent by the Applicant on 14 December. On 8 January 2023 Anglian Water provided the Applicant with a copy of its Deadline 8

	<p>submission, and requested that it be provided with an updated SoCG. This has been provided.</p> <p>Following Anglian Water’s Deadline 8 submissions, the Applicant is hopeful that a signed SoCG can be completed prior to the close of the Examination.</p>
<p>Associated Petroleum Terminals (Immingham) Limited and Humber Oil Terminals Trustees Limited (“IOT Operators”)</p>	<p>Question NS.4.04 of the ExA’s Fourth Round of Written Questions [PD-022] required the Applicant and IOT Operators to set out their positions on an additional matter in their SoCG. The Applicant provided an updated SoCG to IOT Operators on 8 January 2024. Whilst there remain substantial differences between the two parties -</p> <p>the Applicant is hopeful that a signed SoCG can be completed prior to the close of the Examination.</p>
<p>DFDS Seaways (“DFDS”)</p>	<p>DFDS provided a revised draft SoCG on 11 December 2023. The Applicant has expressed considerable concern with DFDS’s characterisation of the Applicant’s case but has nevertheless provided DFDS with an updated SoCG.</p> <p>The Applicant is hopeful that a signed SoCG can be completed prior to the close of the Examination.</p>
<p>Health and Safety Executive (“HSE”)</p>	<p>The Applicant provided a draft SoCG to the HSE on 8 November 2023. On 13 November 2023 the Applicant received a copy of the HSE’s letter (dated the same day [REP6-043]) to the ExA stating:</p> <p><i>“due to being so close to the deadline of 13th November I have not been able to obtain legal advice on this (my job role is technical in nature and SoCG’s are outside standard HSE policy). I sent this for legal advice on 10th November. I can reassure you this will not harm your consideration of HSE’s advice as there is no disagreement –I will provide a fuller response on this when I obtain it.”</i></p> <p>The terms of the draft SoCG are not considered to be contentious and the Applicant has reminded the HSE that a response is required as a matter of urgency.</p> <p>Whilst at this juncture the Applicant is unable to clarify when a signed SoCG can be expected, it is hopeful that this will be agreed before the close of the examination.</p>
<p>Lincolnshire Wildlife Trust (“LWT”)</p>	<p>The SoCG has been completed and signed, and is enclosed.</p>
<p>Marine Management Organisation (“MMO”)</p>	<p>The Applicant and MMO agreed a draft of the SoCG on 10 November 2023. On 13 November 2023, a version of the SoCG signed by the Applicant was sent to the MMO for signature. The Applicant awaits a signed version of the SoCG</p>

	<p>and has written to the MMO asking whether the SoCG can be completed.</p> <p>The Applicant is hopeful that a completed SoCG can be submitted before the close of the examination.</p>
North East Lincolnshire Council (“NELC”)	<p>The previously signed SoCG was revised in early December in order to address additional transport modelling which had been undertaken. This revised SoCG was agreed on 11 December 2023 and the Applicant awaits a signed version from NELC.</p> <p>The Applicant is unable to clarify to the ExA when a signed SoCG can be expected but is confident that it will be completed prior to the close of the examination.</p>
National Highways (“NH”)	<p>The Applicant has continued discussions with National Highways and has provided what it believes to be the final clarification that NH need in order to agree and sign the SoCG.</p> <p>The Applicant is unable to clarify to the ExA when a signed SoCG can be expected.</p>

The Applicant is very conscious of the need to complete all of the SoCG’s before the close of the examination and sees no reason why this cannot be achieved although as noted above, in many cases the Applicant is dependent on the actions of the responding party.

The ExA’s Rule 17 request for completed SoCGs, along with the proximity of Deadline 9, has been brought to the attention of all of the relevant bodies. We continue to work with all of the IPs above in order to agree final SoCGs, and a further update will be provided by the Applicant at Deadline 9.

I trust that the above is of assistance and must apologise that it has been necessary for the Rule 17 letter to have been sent at this late stage in the examination

Yours sincerely



Brian Greenwood
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Clyde & Co LLP