

**EXAMINATION OF THE LANCASTER DISTRICT STRATEGIC POLICIES AND LAND
ALLOCATIONS DEVELOPMENT PLAN DOCUMENT AND DEVELOPMENT PLAN DOCUMENT
SUBMISSION DRAFTS**

INSPECTOR'S MATTERS, ISSUES AND QUESTIONS TO THE COUNCIL

**HEYSHAM PORT LIMITED (PART OF THE PEEL PORTS GROUP): HEARING STATEMENT OF
CASE**

Brabners

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1. Introduction

- 1.1 Heysham Port Limited (registered company number 02447563) is part of Peel Ports Group Limited (registered company number 05965116) whose registered address is the Maritime Centre, Port Of Liverpool, Liverpool, L21 1LA.
- 1.2 Heysham Port Limited (**'the Port'**) is the owner and operator of the Port of Heysham. The Mersey Docks and Harbour Company bought the Port in May 2001 from Sea Containers. Peel Ports Group then acquired the Mersey Docks and Harbour Company in September 2005.
- 1.3 The Port of Heysham is classified as a 'major port' handling in excess of 1 million tonnes per annum. It is a substantial operation creating a freight distribution hub serving the Republic of Ireland, Northern Ireland, the Isle of Man mainland UK. It has also historically and currently played a key role in supporting the Morecambe Bay off-shore gas fields.
- 1.4 Policy SG14 within the proposed modification to Part One of the Strategic Policies and Land Allocations Development Plan Document (**'the Draft SPLA'**) relates specifically to development at the Port of Heysham. For this reason, the Port is a participant organisation to the examination of the Lancaster District Strategic Policies and Land Allocations Development Plan Document and Development Management Development Plan Document Submission Drafts.
- 1.5 The Port is represented by Warren Marshall MRTPI CMILT, the Group Planning Director for Peel Ports Group Limited and Claire Petricca-Riding LLB, Partner and Head of Planning and Environmental at Brabners LLP.

2. Policy SG14: Draft Strategic Policies and Land Allocations Development Plan

- 2.1 Policy SG14 states and will provide support [for] *'the widening of facilities at the Port to encourage diversification, future growth and expansion.'*
- 2.2 The full wording of Policy SG14 is as follows:

"The Council recognises the benefits that are brought to the national, regional and local economy through the Port of Heysham and the Port related facilities that surround it. Through the Local Plan the Council will support the widening of facilities at the Port to encourage diversification, future growth and expansion.

To facilitate such growth the Council will support the development of greenfield land off the Bay Gateway at Imperial Road (as identified under Policy SG14) to allow for uses which seek to improve the operating efficiency at the Port and support the diversification of uses on the Port site itself.

In delivering expansion of Port-related facilities on land at Imperial Road, the following issues should be fully addressed:

- I. The preparation of a suitable and appropriate landscaping plan that should seek to retain existing natural features, including making the best use of the topography of the site and the provision of landscaping buffers where necessary;*
- II. Proposals through the design and construction should seek to address and mitigate against flood risk on the site. Proposals will be expect[ed] to be accompanied by a Flood Risk Assessment that addresses the issues of flooding and mitigation to the satisfaction of the Environment Agency and the Lead Local Flood Authority;*
- III. The submission of a comprehensive drainage plan to set out how surface water drainage will be managed on site. Proposals should have due regard to the SuDs hierarchy that is set out in Policy DM34 of the Development Management DPD;*
- IV. Appropriate safeguarding on the National Grid infrastructure that is in close proximity to the site*

- V. *The delivery of a highways scheme to the satisfaction of Lancashire County Council which provides a primary vehicle access point onto Imperial Road which approximately addresses matters of highway capacity and highway safety;*
- VI. *The creation improved linkages to Heysham and the wider urban areas of Lancaster and Morecambe through improvements to cycling and walking linkages.*

The Council will seek contributions to the wider improvements within the Heysham Gateway area, particularly in relation to improving accessibility by all forms of transport, this includes a contribution towards the completion of Southern end Imperial Road with Middleton Road which would link up the wider Gateway area and provide a greater level of accessibility into this site.

Future proposals should seek to address all relevant elements of the Local Plan and have due regard to the direction of Lancashire County Council's Waste and Minerals Plan. Future proposals will need to demonstrate that no International European designated site would be adversely affected by development either alone or in combination with other proposals, as per the requirements of Policy EN9 of the SPLA. In view of the potential for likely significant effects as a result of this allocation the requirements of Appendix D must be delivered as part of any future proposal"

3. **Impact of Policy SG14 on the Port**

- 3.1 Policy SG14 supports industrial growth and development which would enhance and facilitate the growth of the operations at the Port of Heysham.
- 3.2 For the Port to grow and achieve target growth, industrial expansion must be supported and Policy SG14 enables this. For this reason the Port fully support the submitted and proposed modification to Policy SG14 of the Emerging Local Plan.

4. **Modified Policies Map: District Wide Map ("the Draft Modification Policies Map")**

- 4.1 Policy SG14 in the Draft Modification Policies Map is effective over the parcel of land in the immediate vicinity of the Port of Heysham only – this area being the operational area as used by the Port.
- 4.2 The Draft Modification Policies Map does not include a triangular shaped parcel of land at Heysham Port, North Quay, Heysham Harbour, Morecambe, LA3 2XE as identified on the attached site plan at Appendix 1b ('**the Land**'). The Land is situated to the north of the Port (north of the Port of Heysham Industrial Estate) and is also the Port's operational land. As such, the Land should be included into Policy SG14.
- 4.3 The Land was designated to be within Policy SG14 on the submitted proposals map for the Draft SPLA / Local Plan but has been proposed for exclusion on the Draft Modification Policies Map. The Port objects to the de-designation of the Land under the modification procedure.
- 4.4 The effect of the Land being excluded from Policy SG14 is that development to support diversification, future growth and expansion as set out in the policy will not be supported to the same extent (land allocated under the policy) and thus planning permission for such development will be much harder to obtain.
- 4.5 The Port request the Land to be allocated within Policy SG14.

5. **Allocation of the Land to Policy SG14**

The Land should be retained as allocated for port purposes within Policy SG14 for the following reasons:

- 5.1 The Port's Operational Land

- 5.1.1 The Land is in the freehold ownership of Heysham Port Ltd and as such it is the Port's "operational land" associated with the Port as a Statutory Undertaker.
- 5.2 1985 Planning Permission
- 5.2.1 The Land is a helipad/helicopter facility which is part of the Port's operations – a helicopter facility building was erected under planning permission 1/85/107, granted by Lancaster City Council on 25 February 1985 (**'the 1985 Planning Permission'**). Plans submitted with the planning application identify a helipad on the Land. A copy of the planning permission is provided at Appendix 2.
- 5.2.2 The 1985 Planning Permission gives the Land an established land use as a helicopter facility operational by the Port. The 1985 Planning Permission was granted subject to the condition that development must be begun within five years from the date on which the planning permission is granted and it is understood from evidence held by the Port that development was commenced within the 5 year timescale specified and as such became fully operational in 1991. Since the erection of the helicopter facility, the Port and its tenants associated with the support of the off-shore gas fields have used the helicopter landing facility and this remains available for future off-shore support activity
- 5.3 Continuous use
- 5.3.1 The Port holds substantial documentary evidence within its paperwork files / records to support the continuous and existing use of the Land as operational land and a helicopter facility, for a period in excess of 10 years without enforcement action. As such, the Port has applied for a Certificate of Lawful Use for Existing Use (**'LDC'**) under section 191 of the Town and Country Planning Act 1990 (**'the Act'**) to confirm the use of the Land as a helicopter facility as lawful. The LDC application was submitted to Lancaster Council on 1 April 2019 and thus is currently being determined. The application is supported by a statutory declaration from Warren Marshall, who, in his capacity as Group Planning Director for Peel Ports Limited has access to and has reviewed all of the paperwork to confirm the Port's position with regards to the planning history for the Land. The paperwork / documentation is submitted as evidence in support of this application and as exhibits to the statutory declaration made by Warren Marshall giving the planning history as understood from the documentation.
- 5.3.2 With regards to an application for a certificate of lawful use under section 191 of the Act, the onus of proof in an LDC application rests with the Applicant and the standard of proof is on the 'balance of probability'. Judgement in the key case *FW Gabbittas v SSE* [1985] J.P.L provides that 'if the LPA has no evidence of its own, or from others, to contradict, or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence is sufficiently precise and unambiguous to justify the grant of a certificate 'on the balance of probability'. It should be noted that determining the application on the balance of probability is a significantly lower burden than reasonable probability and therefore the Council are to make judgement on the application accordingly. The Inspector should also be mindful that determination of an LDC application is purely dependent on the law and facts. It is not for the Council to disprove the application or the evidence provided. The Port's application is supported by a statutory declaration from the Port's Group Planning Director. A statutory declaration is a formal, legal statement made under the Statutory Declarations Act 1835 and so is to be regarded as the strongest type of evidence and afforded considerable weighting. It is also held that the Applicant's own evidence does not need to be corroborated by independent evidence in order to be accepted (*FW Gabbittas v SSE* [1985] J.P.L). When refusing an LDC, the Council must consider carefully whether it has a sufficiently strong case for doing so, on the basis of the material before it.
- 5.3.3 The Port continues to make available the use of the helicopter facility on the Land and thus, regardless of whether or not the Certificate of Lawful Use is granted, the Port uses the Land as per the granted 1985 Planning Permission and thus in accordance

with planning law. The table provided at Appendix 3 summarises the documents submitted with the LDC application providing the current and historical land use and copies of the documents can be provided. We ask the Inspector to consider the established use of the Land in view of these documents. Where the Inspector is satisfied that the use is lawful and by definition the Land is the Port's operational land, there is no basis for the de-designation of the Land from the Local Plan / Policy SG14.

- 5.3.4 The existing infrastructure is still in existence. The Port needs to maintain the use of the Land as such in order to support future offshore operations, particularly offshore wind energy. For example, in November 2018 The Crown Estate published their next tranche of off-shore wind farm zones as per the plan at Appendix 4. Significantly, Heysham Port is extremely well placed to provide off-shore support to the Regions "propose to include" being North Wales (16) and Irish Sea (17).

5.4 Planning permission 14/00938FUL

- 5.4.1 Peel Energy Limited were granted conditional planning permission for the erection of a wind turbine with an overall tip height of 77 metres, creation of a hardstanding crane pad area, erection and a control building and underground cabling on land adjacent to the Land and under planning application reference 14/00938/FUL, which was granted 12 February 2015 ('**the Wind Turbine Planning Permission**'). A copy of the Wind Turbine Planning Permission decision notice is provided at Appendix 5.
- 5.4.2 Condition 13 of the Wind Turbine Planning Permission ('Condition 13') provides that the commencement of the development shall not begin until:
 - i. The local planning authority has approved in writing a full scheme of works for the repair and replacement of fencing around the former helipad site as detailed on Figure 1 – Helipad Fencing (December 2014 31164-SHr133.dwg)
 - ii. The approved works have been completed in accordance with the Local Planning Authorities written approval and have been certified in writing as complete on behalf of the Local Planning Authority;
 - iii. These works shall be maintained for the duration of the operation of the wind turbine
 - iv. The timing of construction and decommissioning of the turbine shall avoid periods of high bird usage (November-March) as described in the Environmental Statement
- 5.4.3 The reason for this imposed condition is so that development is consistent with the conclusion of the Appropriate Assessment and to safeguard the integrity of the Morecambe Bay Special Protection Area (SPA)
- 5.4.4 The fencing as requested under Condition 13 has been erected on the Land and in view of this, the Council and Natural England deem the Land to be no longer operational land for the Port.
- 5.4.5 The erection of the fencing under Condition 13 of the Wind Turbine Planning Permission does not override the current and long established use of the Land.
- 5.4.6 Should the Council have wished to restrict the use of the Land as a helicopter facility for the Ports operations, there ought to be a Grampian condition or a planning obligation (s106 agreement) to remove the existing use.
- 5.4.7 Had the Port have been made aware that the Wind Turbine Planning Permission sought to restrict the Port's use of the Land, it would have objected and / or provided comments to the Council. The Port, however, were not consulted during the determination of the Wind Turbine Planning Permission.
- 5.4.8 To restrict the Port's use of the Land by way of a planning condition attached to the Wind Turbine Planning Permission is ultra vires; the Land has no physical connection

to Peel Energy Limited's application for a wind turbine and is not owned by Peel Energy Limited.

- 5.4.9 There is no legal reason why the Land should be removed from Policy SG14 on the basis of a planning condition; this is ultra vires.

5.5 Functional Link with the Morecambe Bay SPA

- 5.5.1 The Land is not within the Morecambe Bay SPA, but it is recognised that it is of close proximity to it and acts (in part) as a high tide roost to oystercatchers, redshank and occasional knot birds. This is the reason why there is a strong objection from Natural England to the inclusion of the Land to Policy SG14 which will support development and the diversification of uses on allocated port land (and may disrupt the high tide roost).

- 5.5.2 Natural England and the RSPB initially objected to the Wind Turbine Planning Permission due to the roosting of oystercatchers, redshank and occasional knot birds. However, the Environmental Statement prepared by AMEC for this planning application, concluded that the number of birds foraging at the site (adjacent to the Land) were relatively small and any small scale displacement that would occur would not be significant. Both Natural England and the RSPB withdrew objections to the proposal once mitigation had been discussed and strategies were built into the Wind Turbine Planning Permission by way of planning condition. Given that the Land has an authorised use and is the Port's operational land, there is no justification to restrict development on the Land.

- 5.5.3 The Wind Turbine Planning Permission does not require an environmental management regime to be in place by Natural England and/or the Council in respect of the Land or the adjacent land for which the Wind Turbine Planning Permission was granted. If the Council and / or Natural England were of the view that the Land had a functionality linked to the SPA that required safeguarding, a management scheme ought to have been secured by means of a section 106 agreement or appropriate planning condition.

- 5.5.4 The Land is adjacent to Heysham Sands which is part of the Morecambe Bay Special Protection Area ('SPA') and is not designated as being part of the SPA. The land which is allocated to Policy SG14 is also adjacent to Heysham Sands thus there is no particular reason why the Land should be carved out of the policy allocation.

- 5.5.5 The Land (and the Port) is not part of the Morecambe Bay Special Area of Conservation ('SAC'). Again, there is no significant reason as to why this parcel of land is to be carved out of Policy SG14.

6. The Council's Position

- 6.1 When initially drafted, the Emerging Local Plan (and policies map) included the Land as the Port's operational land and therefore allocated the Land under Policy SG14.
- 6.2 Following submission of the Emerging Local Plan and liaison with Natural England and the Council's Habitat Assessment Regulation ('HRA') consultants Arcadis, the Council were made aware that this allocation was incorrect – Natural England, Arcadis and the Council understood the position to be that the Land was not within Policy SG14 because it was identified as being functionally linked to land related to the Special Protection Area and it is no longer the Ports operational land.
- 6.3 On this basis, the Council seek through the modification consultation to remove the Land from Policy SG14. The Council will seek to make the Inspector aware of the error and suggested correction in order to ensure alignment with the HRA.

- 6.4 The Council and Natural England are of the opinion that the Land is no longer the Port's operational land and as such there is no requirement or need for the Land to be designated as land under Policy SG14. As demonstrated, this is incorrect and there is a need for the Land to be included into the Policy.

7. Communication with Natural England and Lancaster City Council

- 7.1 The Port attempted to arrange a tripartite meeting with Lancaster City Council and Natural England to discuss this matter without recourse to the Examination. Natural England declined the invitation. As such, the Port requests that this matter be dealt with at the Examination.

8. Matter 1: Legal Compliance, procedural and general

- 8.1 This matter is being assessed in relation to Matter 1 of the of the Inspector's Matters, Issues and Questions to the Council.
- 8.2 Matter 1 is concerned with the following question: have the Development Plan Documents (DPDs) been prepared in accordance with relevant legal requirements, including the Habitats Regulations, Duty to Co-operate, the procedural requirements of the National Planning Policy Framework (NPPF), the Local Development Scheme and the Statement of Community Involvement?
- 8.3 The Draft SPLA has not been prepared in accordance with relevant legal requirements; the Port have not been consulted on the exclusion of the Land within Policy SG14 and there is no justification as to why the Land has been excluded. The Port have attempted to liaise with Natural England, the only party to object to the inclusion of the Land under Policy SG14 and Natural England declined to discuss the matter instead relying upon the Examination to scrutinise this matter.

9. Matter 5: Heritage and Natural Environment

- 9.1 This matter is also being assessed in relation to Matter 5 of the Inspector's Matters, Issues and Questions to the Council.
- 9.2 Matter 5 is concerned with the following question: have the DPDs been prepared in accordance with the relevant statutory tests and the policies of the NPPF?
- 9.3 Matter 5 a) is concerned with the conservation and management of the District's built and natural heritage in accordance with the NPPF. As provided in Paragraph 5.5.4 above, the Land is not within the Morecambe Bay SPA, but the Port does recognise that it is of close proximity to it and acts (in part) as a high tide roost to oystercatchers, redshank and occasional knot birds. The Land, however, is not part of Natural England's formal designation and should not be restricted in accordance with the formal statutory designation.
- 9.4 As a related case study also within the North-West we wish to highlight the consideration of Seaforth Nature Reserve within the Sefton Local Plan (Adopted April 2017). Seaforth Nature Reserve forms part of a wider designation "Mersey Narrows and North Wirral Foreshore" which is classified as a SSSI and SPA/Ramsar. Appendix 6 is the Policies Map for the Sefton Local Plan which illustrates that the Port of Liverpool is allocated under Policy ED1 and the nature conservation designation is overlain under Policy NH2. In this case Natural England considered the interface between the port allocation and a nature conservation site did not warrant the removal of the port allocation to create "white land" as would be the case for the Heysham helipad land which is proposed for de-allocation.

10. CONCLUSIONS

- 10.1 The Port fully support the wording of Policy SG14 within the Draft SPLA and request that the Land is allocated as part of the policy allocation; the Land is the Port's operational land which is currently used and should be deemed as such within Policy SG14.

- 10.2 The Port require the ability to expand and develop operations at the Port of Heysham, using the Land to support existing and future operations. The Port's future business strategy is to develop its offshore wind operations, which will require the use of the helicopter facility on the Land. The Port require development on the Land, entirely in accordance with Policy SG14 and therefore request the Land to be part of the allocation.
- 10.3 The Land is a helicopter facility, erected in accordance with planning permission granted by Lancaster City Council; the 1985 Planning Permission. Since the grant of the 1985 Planning Permission, the Land has been used as a helicopter facility and the Port have submitted an application for a Certificate of Lawful Use to confirm the lawful use.
- 10.4 The Port are aware that the Land does have a functional link to the Morecambe Bay SPA and SAC but are not aware that the provisions of the Habitats Directive or Birds Directive are such that restrictions or mitigation measures can be placed upon the long established and authorised use of the helipad land.
- 10.5 There is no justifiable or legal reason why the Land should not be allocated within Policy SG14. The Draft Modification Policies Map is therefore not positively prepared, justified, effective or consistent with national policy and for these reasons the Port submits that the Draft SPLA and Draft Modification Policies Map are unsound.

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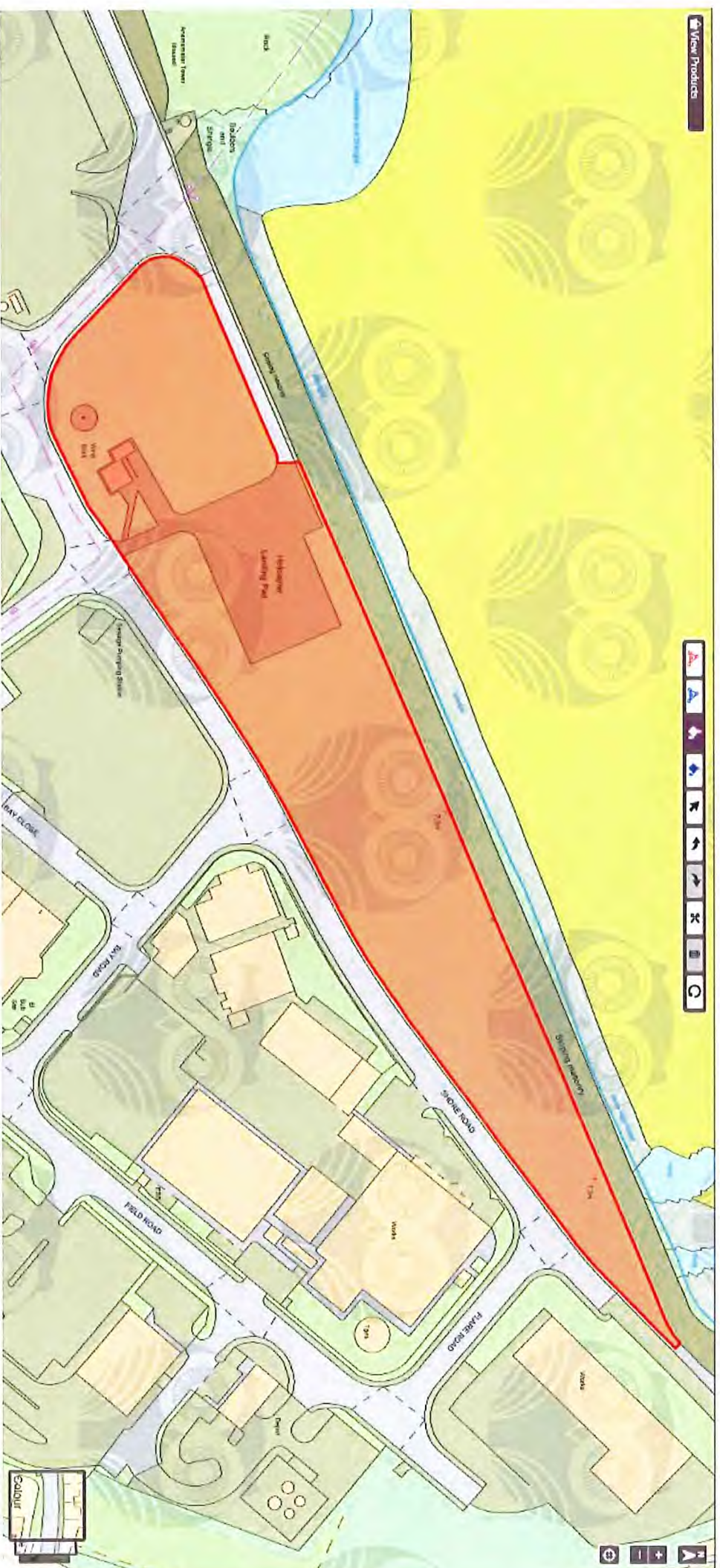
APPENDIX 1 – LOCATION PLAN

H.M. LAND REGISTRY		TITLE NUMBER	
		LA 787262	
ORDNANCE SURVEY PLAN REFERENCE	SD3959 SD3960 SD4059 SD4060	Scale	1/2500
COUNTY	LANCASHIRE	LANCASTER DISTRICT	© Crown Copyright

This official copy issued on 28 August 2008 shows the state of this title plan on 28 August 2008 at 12.00 noon. It is admissible in evidence to the same extent as this copy to the Land Registry. It may be subject to alterations in scale. This title plan shows the general position, not the exact line, of the boundaries. It may be subject to alterations in scale. This title plan shows the general position, not the exact line, of the boundaries. It may be subject to alterations in scale. This title plan shows the general position, not the exact line, of the boundaries. It may be subject to alterations in scale.



b) The Land (as shown in red and being the parcel of land which has been de-allocated from Policy SG14 under the Draft Modifications Policy Map)



APPENDIX 2 – THE 1985 PLANNING PERMISSION

Planning permission

Name and address of applicant

British Gas Corporation,
59 Bryanston Street,
Marble Arch,
London, W1A 2AZ.

Name and address of agent (if any)

Mr. P. Weatherilt,
Chief Environmental Planning Officer,
British Gas Corporation,
59 Bryanston Street,
Marble Arch,
London, W1A 2AZ.

Part I - Particulars of application

Date application received:

1/2/85

Application no.

1/85/107

Particulars and location of development:

Erection of a helicopter facility building.

Heysham Gas Base, North Wharf, Heysham.

Part II - Particulars of decision

The Lancaster City Council

hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1971 that permission has been granted for the carrying out of the development referred to in Part I hereof in accordance with the application and plans submitted subject to the following conditions:

1. The development must be begun not later than the expiration of five years beginning with the date of this permission.

NOTES:

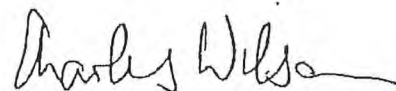
1. Consent to discharge the foul water from the septic tank into the underground strata will be required to be obtained from the North West Water Authority, North Cumbria Area Office, Chertsey Hill, Carlisle.
2. There is a recently laid foul sewer located nearby on the adjacent Port of Heysham Industrial Estate that will be adopted in 1986. The developers are advised to contact the City Engineer should they wish to take advantage of this sewer for a permanent drainage connection.

The reasons for the conditions are:

1. Required to be imposed pursuant to section 41 of the Town and Country Planning Act 1971

Date 25th February 1985

Palatine Hall, Dalton Square, Lancaster LA1 1PW



City Architect and Planning Officer

Note: This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation.

APPENDIX 3 – DOCUMENTS SUBMITTED WITH THE PORT'S LDC APPLICATION

LDC Exhibit Reference	Date	Source	Comment
Exhibit 3	5 March 2019	Photographs taken by Warren Marshall on 5 March 2019	This exhibit is a series of photographs which I have taken during a visit to the Land on 5 March 2019. The photographs show the current use of the Land as a helipad with a helicopter facility as follows: • Photograph 1: Photograph of the Land displaying the helipad and helicopter facility building (photograph reference 0162) • Photograph 2: Sign on the Land saying that helicopter operations are in use (and warning the public to keep out) (photograph reference 0163) • Photograph 3: Photograph of the helicopter facility building and anemometer erected on the Land (photograph reference 0164) • Photograph 4: Photograph showing the helicopter facility building (photograph reference 0165) • Photograph 5: Photograph showing the hardstanding / helicopter landing pad on the Land (photograph reference 0166) • Photograph 6: Photograph showing the helicopter facility building on the Land (photograph reference 0167) • Photograph 7: Sign on the Land requesting vehicles not to park heavy goods vehicles on the Land because this is a risk to helicopter operations on the Land (Photograph reference 0179)
Exhibit 4	20 December 2018	Letter from Alistair Procter (Commercial Contracts Manager, Heysham Port Limited) to Tony Bannon (Peterson (UK) Limited) in	This letter is a review of the rates applicable to the charges for the regular supply operation for particular facilities at the Port (as identified), with the charges to be effective from 1 st January 2019.

		relation to a review of the charges applicable to the regular supply operation at the Port	A helicopter landing charge is identified as a separate charge and is stated as a charge on this letter. The charge is applicable per occasion that the helipad is used.
Exhibit 5	10 August 2015	The Bolton News – article entitled ‘Little Lever Teenager’	This is a news article reporting on a rescued teenager in Heysham after being swept away by tide. This article reveals that the North West Air Ambulance attended the incident scene and landed at the helipad at the Port of Heysham.
Exhibit 6	May 2015	Morecambe Bay Partnership Recreational Disturbance and Access Management Report	This document refers to the Land as [an] unused industrial site close to Heysham docks and ferry port and formerly used as a heliport (and could be brought back into use for this purpose) The document also provides examples of winter roost sites and access sites and giving a photograph labelled “Heysham Heliport”.
Exhibit 7	May 2012	Extract from the Port’s written representations and evidence on behalf of Heysham Port Ltd regarding the application for a new dual carriageway connecting the A683 and A589 with Junction 34 of the M6 (Heysham to M6 Link Road) (reference number TR010008)	This extract describes the Port and the Port’s existing facilities as follows <i>“over 5,000 square meters of modern warehousing, cement, barite and bentonite silos, bunkering, cranage, workshops, storage compound and helipad, overseen by a management and administration centre.”</i>
Exhibit 8	3 May 2012	Aeronautical chart of UK airspace restrictions and hazardous areas (and Schedule) produced by National Air Traffic Services	This is the National Air Traffic Services’ aeronautical chart showing the aeronautical facilities for the North West of England. The Port of Heysham is annotated on the map as being a helicopter facility and is listed on the Schedule at Entry R444. Entry R444 of the Schedule states that the helicopter facilities on the Land are for <i>“flights permitted for the</i>

			<i>purpose of landing or taking off from helicopter landing area at Heysham"</i>
Exhibit 9	9 September 2009	Centrica briefing document for the surrender of the existing British Hydrocarbons Lease and improvement of the long term income, port infrastructure and capital value	This is a briefing document published by Centrica for the surrender of the existing Hydrocarbons Lease which relates to the Land and the Port of Heysham. The location plan attached to the lease identifies the Land as a helipad.
Exhibit 10	3 September 2009	National Non Domestic Rate Bill in respect of the Helicopter Pad and premises for the period 1 April 2009 to 1 April 2010 issued by Lancaster City Council on 3 September 2009	This is a bill issued to the Port by the Council to set out the National Non Domestic Rate / charge payable by the Port to the Council for the helicopter pad and premises – the premises to which this bill is applicable is described as the 'Helicopter Pad and Premises' The bill provides a payment schedule and sets out the sums due to the Council.
Exhibit 11	3 September 2009	National Non Domestic Rate Bill in respect of the Helicopter Pad and premises for the period 16 January 2009 to 1 April 2009 issued by Lancaster City Council on 3 September 2009	This is a bill issued to the Port by Lancaster City Council to set out the National Non Domestic Rate / charge payable by the Port to the Council for the helicopter pad and premises – the premises to which this bill is applicable is described as the 'Helicopter Pad and Premises' and the address given is the Centrica Helicopter Landing Pad, North Quay, Heysham Port, Morecambe, Lancashire, LA3 2UL The bill requests the Port to pay the due sum on 17.09.2009 and in respect of the Centrica Helicopter Landing Pad.
Exhibit 12	February 2009	Schematic map of area surrounding the Heysham Nature Reserve, produced by the Heysham Bird Observatory	This is an annotated map of the area and facilities surrounding the Heysham Nature Reserve (as designated). The full extent of the Land is provided on this map and is labelled as a heliport

Exhibit 13	16 January 2009	Heysham Port Limited and Hydrocarbon Resources Limited Lease relating to Part North Quay, Heysham Port, Heysham dated 16 January 2009	A helicopter landing pad is identified on the site location plan for the new lease (drawing reference 1393-01).
Exhibit 14	15 July 2008	Carillion/Centrica HRL Heysham Site Separation Issue 04, dated 15 July 08	This is a project brief stating that the project intention is to reduce Centrica HRL activity on the site to the HRL head office function only, returning land and the helipad to Peel Ports and transferring assets on part of this land to SBS so that SBS can lease land directly from Peel Ports.
Exhibit 15	31 October 2007	Letter from Andrew Martin, Chief Surveyor at Mersey Ports to Graham Mclean General Manager at Heysham Ports Ltd in respect of the Port of Heysham/Centrica/SBS	The letter sets out the revised terms for the Port of Heysham and refers to a site plan relating to the lease dated 24 th October 1991 between Heysham Port Limited and British Gas Exploration and Productions Limited and British Gas PLC which shows the Land as a helicopter landing pad – the letter describes the Land as the existing demise.
Exhibit 16	20 April 2007	Drawing number 001A of Indicative Turbine positions to support the proposal for wind turbines	A helicopter landing pad is identified on this drawing to support application for wind turbine on the Land. Two of the wind turbines are proposed on the Land
Exhibit 17	2006	Offshore windfarm developments site maps	This series of maps were identified as part of the windfarm plant proposals for the Port of Heysham (and the Land). The maps identify and label the Land as a helipad.
Exhibit 18	2005	Heysham Port Map (Official Map)	A helicopter pad is labelled as being situated on the Land on the official Port of Heysham Map. The document also provides the following as a description for the Port of Heysham: "located on the north side of the harbour, on more than 20 acres with a 150 metre long exclusive quay, the supply base includes 5,100 square metres of modern warehousing, cement and bentonite silos,

			bunkering, cramage, workshops, storage compound and helipad overseen by a contemporary management and administration centre.
Exhibit 19	2003	Windfarm plant proposals	This series of maps were identified as part of the windfarm plant proposals for the Port of Heysham (and the Land). The maps identify and label the Land as a helipad
Exhibit 20	2002	Heysham Port, the 24 Hour Gateway Official Map	This is the official map for the Port of Heysham in 2002. The map identifies and labels the Land as a helipad.
Exhibit 21	6 February 2002	Letter from John Beer, Group Property Manager Centrica Plc to Ian Pollit, The Mersey Docks and Harbour Company Management Surveyor in relation to the Port of Heysham and hydrocarbon resources	This is a letter confirming the position of various matters at the Port of Heysham following a meeting. The letter states that it is necessary to retain the helicopter landing pad and retain the Land.
Exhibit 22	3 September 2001	Letter to John Beer, Group Property Manager Centrica Plc from Ian Pollit, The Mersey Docks and Harbour Company Management Surveyor in relation to the Port of Heysham and hydrocarbon resources	This is a letter providing a view on the position at the Port of Heysham in relation to hydrocarbon resources. The Mersey Docks and Harbour Company Management surveyor refers at point 3 of the letter to the Land being a helicopter landing pad.
Exhibit 23	May 2001	Heysham Port Limited brochure entitled "Heysham, the convenient, round the clock port that saves time and money" produced shortly after the purchase of the Port of Heysham by the Mersey Docks and Harbour Company	This is a marketing brochure published by Heysham Port Limited and shortly after the Mersey Docks and Harbour Company acquired the Port of Heysham from Heysham Port Limited (in May 2001) The map on the final page of the document (page 5) has a helipad labelled on the Land

Exhibit 24	17 October 2000	Letter from Graham Maclean (General Manager, Heysham Port Limited) to Martin O’Gorman (Hydrocarbon Resources Ltd) in relation to a review of the charges applicable to the regular supply operation at the Port	This letter is a review of the rates applicable to the charges for the regular supply operation for particular facilities at the Port (as identified), with the charges to be effective from 1st January 2001 A helicopter landing charge is identified as a separate charge and is stated as a charge on this letter.
Exhibit 25	April 2000	Plan of Heysham Port produced by Atlantic Geomatics (UK) Ltd of Aldby Farm, Dacre, Penrith, Cumbria, CA11 0HN	This is a plan drawn up of Heysham Port to the scale of 1 – 2500 and identifies and labels the Land as a helicopter landing pad
Exhibit 26	1998 – May 2001	Heysham Port Limited brochure on the Port of Heysham entitled “24 hour Port of Heysham” produced / published by Sea Containers	This is a marketing brochure published by Sea Containers who owned the Port of Heysham at this time. The brochure outlines the services that Sea Containers provide at the Port of Heysham. A description of the facilities at the Port of Heysham is provided on page 3 of the brochure. The text is as follows: <i>“The length of the North Quay is 290m of which 140m is solely dedicated to British Gas for its marine supply base which provides services to East Irish Sea gas and oil fields. Occupying over 20 acres, the base incorporates 4,600 square meters of modern warehousing, management and administration offices, cement / mud silos, bunkering facilities, carnage, workshop, helipad and storage compound”</i> The location map on the second page of the document (first figure) has a helipad labelled on the Land. The IOMSPC ferry “Ben-my-Chree” is shown on the cover of the brochure and was built in 1998. This brochure was therefore produced between 1998 when this vessel was

			built and May 2001 which was when The Mersey Docks and Harbour Company bought Heysham Port Limited.
Exhibit 27	24 October 1991	Lease between Heysham Port Limited, British Gas Exploration and Production Limited and British Gas Plc in relation to premises at North Quay, Heysham, Lancashire, dated 24 October 1991	This lease makes provisions for the lessees to covenant with the covenant with the lessors in the manner of (5) if in any year of the term the amount realised in harbour dues (which for purposes of this sub-clause shall be deemed to include payments made in respect of helicopter landing charges. The reference to helicopter landing charges for this site is indicative of the use of the land as a helicopter landing pad.

**APPENDIX 4 – CROWN ESTATE MAP OF OFFSHORE WIND FARM ZONES FOR THE NORTH
WEST OF ENGLAND WITH THE PORT OF HEYSHAM IDENTIFIED AS A KEY AREA,
PUBLISHED NOVEMBER 2018**

Proposed region refinement (November 2018)

THE CROWN
ESTATE

Regions

Propose to include:

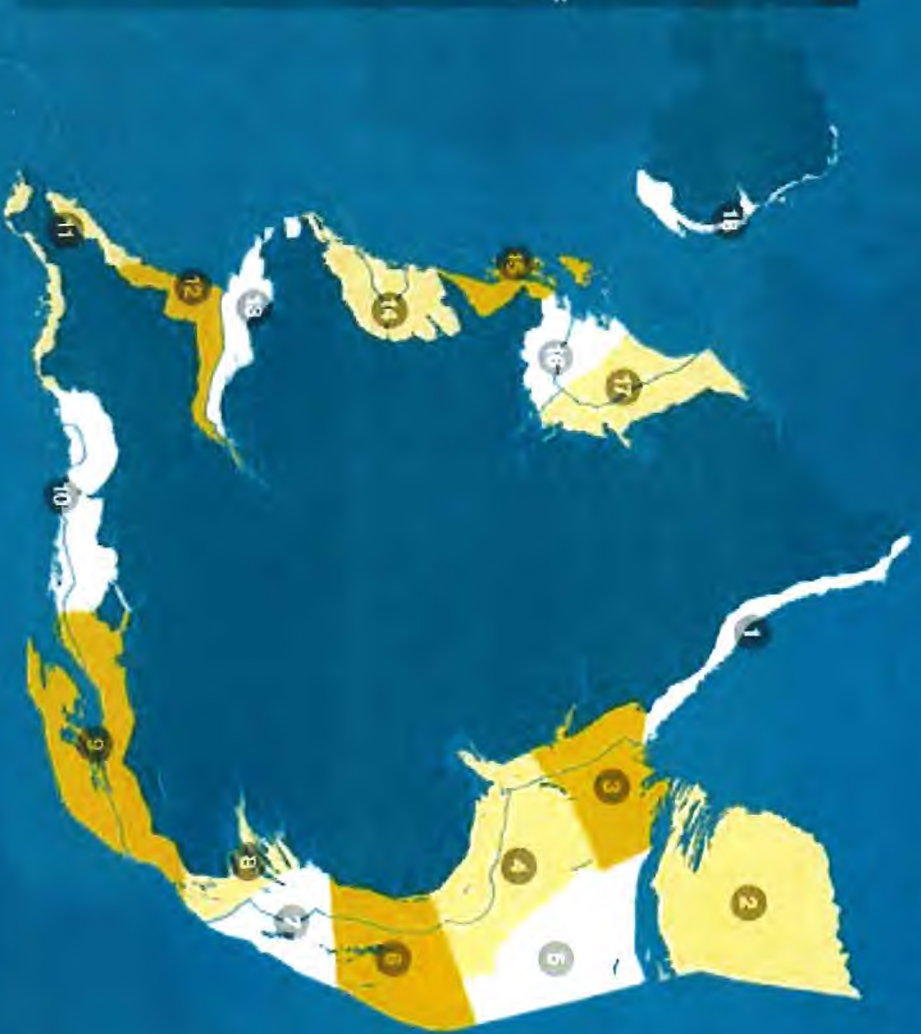
- 2 Dogger Bank
- 5 Southern North Sea
- 6 East Anglia
- 16 North Wales
- 17 Irish Sea

Under further consideration:

- 3 Yorkshire Coast
- 4 The Wash
- 9 South East
- 15 Anglesey

Not being taken forward:

- 1 Durham Coast
- 7 Thames Approaches
- 8 Kent Coast
- 10 West of Isle of Wight
- 11 South West
- 12 Bristol Channel (England)
- 13 Bristol Channel (Wales)
- 14 Cardigan Bay
- 18 Northern Ireland



**APPENDIX 5 – THE WIND TURBINE PLANNING PERMISSION DECISION NOTICE (GRANTED 12
FEBRUARY 2015)**



Mr Stephen Snowdon
C/O Mr James Glynn
AMEC
Canon Court
Abbey Lawn
Abbey Foregate
Shrewsbury
SY2 5DE

Regeneration and Planning
Development Management Team

PO Box 4
Town Hall
Lancaster
LA1 1QR

TOWN & COUNTRY PLANNING ACT 1990

PLANNING PERMISSION

Application No. : 14/00938/FUL

Applicant : Mr Stephen Snowdon

Site Address : Heysham Port Ltd North Quay Heysham Harbour Heysham Morecambe Lancashire
LA3 2XF

Proposal : Erection of a wind turbine with an overall tip height of 77 metres, creation of a hardstanding crane pad area, erection of a control building and under-ground cabling

Lancaster City Council hereby give notice that **PLANNING PERMISSION HAS BEEN GRANTED** for the development described above in accordance with your planning application dated 29 August 2014, and the plans, drawings and documents which form part of the application, subject to the following conditions and reasons:-

1. The development to which this permission relates must be started not later than the expiration of 3 years beginning with the date of this permission.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. The development hereby permitted shall be carried out in accordance with the submitted approved plans and documents. A 500kW wind turbine shall be developed and installed in accordance with the dimensions specified on Figure 3.2 of the Environmental Statement and a maximum tip height of 77m.
Reason: For the avoidance of doubt and to ensure a satisfactory standard of development.
3. The generation of electricity from the development shall cease no later than 25 years after the first commercial generation of electricity from the turbine to the electricity grid, after which time the wind turbine and associated infrastructure shall be removed from the site and the land reinstated in accordance with a Decommissioning and Site Restoration Scheme (including the timing of such works) to be first agreed in writing within the Local Planning Authority, such a scheme to have been submitted at least 12 months before the expiry of the 25 years. The scheme shall include details of the methods and measures, management and a timetable for the removal of the turbines and associated infrastructure and land reinstatement and restoration. The scheme shall be implemented in accordance with the approved details.

Reason: At the end of the operational life of the development, to ensure cessation of operations and proper decommissioning of the operational facility in the interests of the amenity of the area.

4. The wind farm operator shall, within one month of the first commercial generation of electricity from the turbine to the electricity grid, notify the Local Planning Authority in writing of the date on which the first commercial generation from the wind turbine of electricity occurred.

Reason: For clarity and to ensure that, on decommissioning, the site is reinstated in order to protect the environment.

5. Within 12 months of the cessation of electricity generation, or if the turbine ceases to be operational for a continuous period of 6 months or any such period as may otherwise be agreed in writing with the local planning authority (but not exceeding 12 months), the turbine and any associated equipment and infrastructure shall be removed and land reinstated in accordance with a decommissioning scheme to be first submitted and agreed in writing by the local planning authority. The scheme must be submitted within 6 months following the expiry of the 12 month period (for cessation of electricity generation) or 6 month period (turbine ceases to operate) provided in this condition and shall include details of the measures, methods and timetable for the removal of the turbine and associated infrastructure together with site restoration measures.

Reason: To ensure proper decommissioning in the interests of the amenity of the area.

6. The wind turbine hereby approved shall be sited within 10m of the turbine position indicated on Drawing Number 31164-Shr84.dwg.parkj (Figure 3.1 of Environmental Statement - Wind Farm Layout). The exact longitude and latitude of the turbine shall be provided within 4 weeks of commissioning of the turbine.

Reason: To provide scope for micro siting whilst ensuring the development does not differ materially from the submitted proposal.

7. Prior to the commencement of development, an operations and maintenance programme, including confirmation of the installed safety control system and vibration sensors for the turbine and programme for maintenance and inspections shall be submitted to and approved in writing with the local planning authority. The development shall be carried out in accordance with the agreed details.

Reason: So that the local planning authority are satisfied as to the details and in the interest of health and safety given the site's sensitive location within the port and adjacent to the Heysham Nuclear Power Station.

8. Prior to the commencement of development, the precise details of the design and external appearance of the turbine shall be submitted to and agreed in writing by the local planning authority. In particular, no part of the turbine structure shall display any logo or advertisement (other than health and safety signs), nor shall it be illuminated other than aviation lighting (in the form of infrared lighting) that might be required by law. The development shall be constructed, maintained and retained in accordance to the approved details at all times.

Reason: To ensure the external appearance and the operation of the wind turbine is acceptable, in the interests of the visual amenity of the locality.

9. Prior to the commencement of development, details of the control building including, siting, design and use of materials and any associated enclosures, shall be submitted to and agreed in writing with the local planning authority. The development shall be constructed, maintained and retained at all times thereafter in accordance to the approved details.

Reason: So that the local planning authority are satisfied as to the details and in the interest of the visual amenity of the locality.

10. No works shall commence on site until a Construction and Decommissioning Method Statement has been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the construction of the development (and decommission after 25 years or earlier pursuant of condition 5), shall only be carried out in accordance with the approved Statement, unless otherwise agreed in writing by the Local Planning Authority. The Construction and Decommissioning Method Statement shall address the following matters:

- a. Details of the programme and phasing of all construction works, including foundation works, substation and control buildings, cable trenches
- b. Siting and details of wheel washing facilities and/or road sweeping
- c. Dust control and management

- d. Pollution control measures such as bunding of fuel storage areas, protection of adjacent Morecambe Bay
- e. Construction noise management plan (details of equipment to be employed during construction, operations to be carried out and any necessary mitigation measures to minimise any impacts on nearby employees and residents)
- f. Any temporary site illumination (external lighting)

Reason: To retain control over the construction and decommissioning phases of the development in the interests of visual amenity, the environment and the amenities of occupants of nearby properties and places of employment.

11. Construction work shall only take place between the hours of 0800 - 1800 on Monday to Friday inclusive and 0800 - 1300 hours on Saturday. In particular no such work shall be undertaken on Sundays or Public Bank Holidays. Outside these hours development at the site shall be limited to the transportation of the crane (to install the turbine) and turbine components only together with the erection of the turbine itself. Prior notice (a minimum of 5 working days) of such work outside the specified hours must be given to the local planning authority in writing.

Reason: In order to minimise disturbance to nearby residents and in the interests of highway safety.

12. Prior to any site preparation or construction works in association with the development hereby approved, a construction traffic management method statement (CTMMS) shall be submitted to and approved in writing by the local planning authority in consultation with the highway authority. The CTMMS shall include details relating to:-

- Pre-construction highway condition survey and a subsequent scheme for the reinstatement of any highway verges and footways disturbed where abnormal loads associated with the development have had to over-ride them.
- Details of the operational arrangements for the management of heavy goods vehicles and abnormal loads to / from site, in particular their routing, management of junctions and crossings of the highway and other public rights of way, a schedule for the timing of heavy vehicle / abnormal load movements and details of banks-men / escorts for abnormal loads.
- Any temporary or permanent highway alterations and improvements necessitated by the development, including details of temporary warning signing.
- Measures for reinstating the highway after the removal of any temporary works together with details of the timing of any remediation measures.

The development shall be carried out in accordance with the agreed CTMMS at all times unless otherwise agreed in writing with the local planning authority.

Reason: To maintain the operation of through routes in the area during the sites period of construction and to ensure the safety of other highway users.

13. The commencement of the development authorised by this permission shall not begin until:
- a) The local planning authority has approved in writing a full scheme of works for the repair and replacement of fencing around the former helipad site as detailed on Figure 1 - Helipad Fencing (December 2014 31164-SHr133.dwg);
 - b) The approved works have been completed in accordance with the Local Planning Authorities written approval and have been certified in writing as complete on behalf of the local planning authority;
- These works (specified at a and b above) shall be maintained for the duration of the operation of the wind turbine.

The timing of construction and decommissioning of the turbine shall avoid periods of high bird usage (November-March) as described in the Environmental Statement.

Reason: So the development is consistent with the conclusion of the Appropriate Assessment and to safeguard the integrity of the Morecambe Bay Special Protection Area.

14. Prior to erection of the wind turbine on site, a scheme for the avoidance of shadow flicker and remediation measures to be undertaken, including setting a protocol for the assessment of shadow flicker in the event of a complaint, shall be submitted to and approved in writing by the Local Planning Authority. Operation of the wind turbine shall take place in accordance with the approved scheme.

Reason: In order to protect the amenities of nearby residents and employees.

15. All electrical cabling between the turbines and the substation shall be located underground, unless otherwise agreed in writing with the local planning authority prior to installation.
Reason: In the interests of the amenity of the area.
16. The wind turbine shall not be erected until a scheme to provide Ministry of Defence accredited infra-red warning lighting has been submitted to and approved in writing by the Local Planning Authority. The turbines shall be erected with this approved lighting installed and the lighting shall remain operational throughout the duration of the development hereby consented unless the Local Planning Authority confirms that the Ministry of Defence no longer requires this lighting.
Reason: To protect the character and appearance of the area.
17. The noise emission from the wind turbine when operating in isolation shall not exceed 31 dB(A) LA90.10min when calculated in accordance with 'A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise' May 2013 at the curtilage of any residential properties lawfully existing at the time of this consent at wind speeds up to and including 10 ms⁻¹ at 10m height.
- 17i. For the purpose of this condition, curtilage is defined as 'the boundary of a lawfully existing domestic garden area'.
- 17ii. At the reasonable request of the Local Planning Authority (LPA), the wind turbine operator shall, at its own expense, employ a suitably competent and qualified person to measure and assess, by a method to be approved in writing by the LPA, whether noise from the turbine meets the specified level. The assessment shall be commenced within 21 days of the notification, or such longer time as approved by the LPA.
- 17iii. A copy of the assessment, together with all recorded data and audio files obtained as part of the assessment, shall be provided to the LPA (in electronic form) within 60 days of the notification.
- 17iv. If the assessment requested by the LPA demonstrates that the specified level is being exceeded, the operator of the turbine shall take immediate steps to ensure that the noise emissions from the turbine are reduced to, or below, the specified noise limit. The operator shall provide written confirmation of that reduction to the LPA within a time period to be agreed with the LPA. In the event that it is not possible to achieve the specified noise limit with mitigation within a reasonable time period, then the operation of the turbine shall cease.
- 17v. In the event that an alternative turbine to that contained in the submitted noise assessment (EWT DW 54 500KW) is chosen for installation, then development shall not take place until a new desktop site specific noise assessment of the proposed turbine has been submitted to and approved in writing by the Local Planning Authority.
18. Within 28 days from the receipt of a written request from the Local Planning Authority and following a complaint to the Local Planning Authority from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind turbine operator shall, at the operators expense, employ an independent consultant approved by the Local Planning Authority to assess the level of noise emissions from the wind turbine at the complainant's property. The wind turbine operator shall provide to the Local Planning Authority the independent consultant's assessment and conclusions regarding the said noise complaint, including all calculations, audio recordings and the raw data upon which those assessments and conclusions are based. Such information shall be provided within 3 months of the date of the written request of the Local Planning Authority unless otherwise extended in writing by the Local Planning Authority.
Reason: in order to protect the amenity of neighbouring residents.
19. Prior to the commencement of the development hereby permitted, a baseline television (terrestrial and digital) reception study in an area to be first agreed with the local planning authority shall be undertaken by a qualified television engineer and submitted to the local planning authority. A scheme of works necessary to mitigate any adverse effects to domestic television signals in the agreed area caused by the development shall also be submitted to and approved in writing with the local planning authority. Any claim by any person for domestic television picture loss/interference at their household within 12 months of the final commissioning of the wind turbine shall be investigated by a qualified television engineer and the results submitted to the local planning

authority. Should any impairment to the television reception be determined by the qualified engineer as attributable to the wind turbine on the basis of the baseline reception study, such impairment shall be mitigated in accordance with an agreed mitigation scheme within 3 months of the results of the investigation being submitted to the local planning authority.

Reason: For the avoidance of doubt and so that the local planning authority is satisfied as to the details.

20. The development shall be carried out in accordance with the submitted Flood Risk Assessment. Specifically, prior to first operation of the turbine, a flood response plan shall be submitted and approved in writing by the Local Planning Authority. The turbine operator shall also sign up to the Environment Agency's Flood Warning Service.

Reason: To reduce the risk of flooding to the proposed development and future occupants/personnel.

21. No development approved by this permission shall be commenced until the following measures have been implemented:

- a) The application site has been subject to a detailed scheme for the investigation and recording of contamination and remediation objectives have been determined through risk assessment and agreed in writing by the local planning authority (LPA).
- b) Detailed proposals for the removal, containment or otherwise rendering harmless any contamination (the Remediation Method Statement) have been submitted to and approved in writing by the LPA.
- c) The works specified in the Remediation Method Statement have been completed in accordance with the approved scheme.
- d) If during remediation works any contamination is identified that has not been considered in the Remediation Method Statement, then remediation proposals for this material shall be agreed in writing with the LPA.
- e) A Validation Report and Certificate, confirming achievement of the Remediation Method Statement's objectives has been submitted to and approved in writing by the LPA, including confirmation of any unforeseen contamination encountered during remediation.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction.

ARTICLE 31 – DEVELOPMENT MANAGEMENT PROCEDURE ORDER

Please see the attached statement which forms part of your decision notice.

Signed:



Date: 12 February 2015

Andrew Dobson Dip EP MRTPI PDDMS
CHIEF OFFICER (REGENERATION & PLANNING)

Your attention is drawn to the notes to be read in conjunction with the notice of decision. A copy can be downloaded from <http://www.lancaster.gov.uk/documents/planning/decnotes.pdf>



TOWN AND COUNTRY PLANNING ACT 1990

ARTICLE 31 – DEVELOPMENT MANAGEMENT PROCEDURE ORDER

Development Plan Policies, Proposals and Reasons for Decision

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

In the Lancaster District, the Development Plan comprises the saved policies of the Lancaster District Local Plan (2004) and the adopted Lancaster District Core Strategy (2008).

The proposal complies with the relevant policies and provisions of the Development Plan and on consideration of the merits of this particular case, as presented in full in the officer report, there are no material considerations which otherwise outweigh these findings.

Statement

In accordance with Article 31 of the Development Management Procedure Order, the City Council can confirm the following:

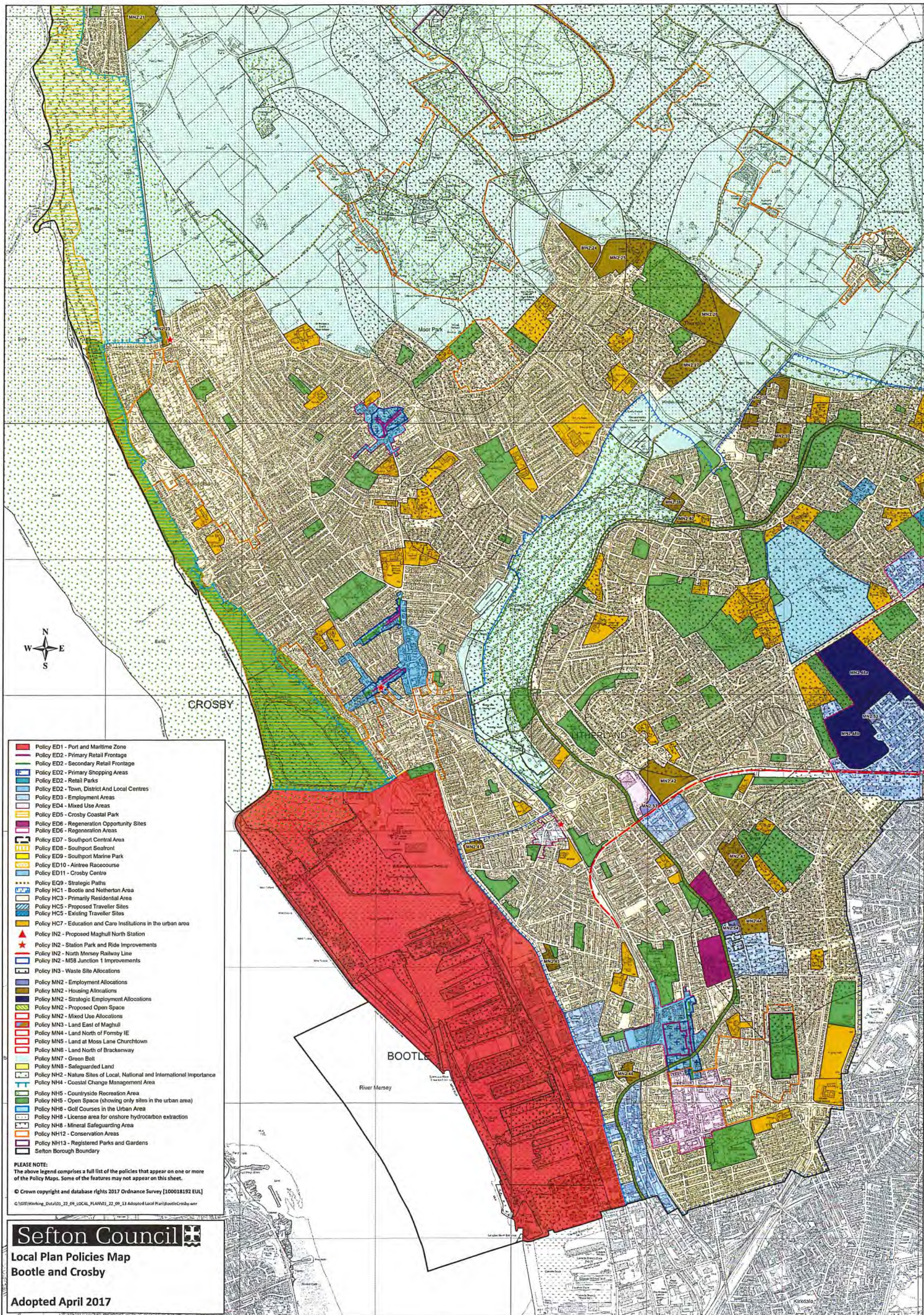
The local planning authority has proactively worked with the applicant/agent in negotiating amendments which have now positively influenced the proposal and have secured a development that now accords with the Development Plan and the National Planning Policy Framework.

Signed:

Date: 12 February 2015

Andrew Dobson Dip EP MRTPI PDDMS
CHIEF OFFICER (REGENERATION AND PLANNING)

**APPENDIX 6 – SEFTON COUNCIL LOCAL PLAN POLICIES MAP FOR BOOTLE AND CROSBY
(ADOPTED APRIL 2017)**



Sefton Council

**Local Plan Policies Map
Bootle and Crosby**

Adopted April 2017