

HD42

DOCUMENT REFERENCE:

**STATEMENT OF COMMON GROUND
AND
DISAGREEMENT**

**LANCASTER CITY COUNCIL
AND
HEYSHAM PORT LIMITED**

DATE: APRIL 2019

1. Introduction

- 1.1 This Statement of Common Ground and Disagreement has been prepared jointly by Heysham Port Limited (the "Port") and Lancaster City Council ("LCC").
- 1.2 It follows the request by the Planning Inspector following the Examination of Matter 1 on 9 April 2019 at which it was clear there were notable differences, as well as common ground, on the Port's and LCC's position regarding the land allocation in respect of Policy SG14.

2. Matters of Common Ground

- 2.1 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.
- 2.2 The Port is classified as a 'major port' handling in excess of 1 million tonnes per annum. It is a substantial operation as a freight distribution hub serving the Republic of Ireland, Northern Ireland, the Isle of Man from mainland UK. It has also historically and currently played a key role in supporting the Morecambe Bay off-shore gas fields.
- 2.3 Within the Port's freehold ownership is a piece of land known as the "Helipad". This area of land is operationally linked to the Port as it provides a service to the users of the Port.
- 2.4 Close to the Port and the Helipad are the Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar sites.
- 2.5 The protected site comprises areas for breeding seabirds, foraging breeding seabirds, non-breeding seabirds and waterbirds utilising a range of habitats.
- 2.6 Policy SG14 within the Submitted Part One of the Strategic Policies and Land Allocations Development Plan Document (the "Submitted 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.
- 2.7 Policy SG14 states and will provide support [for] '*the widening of facilities at the Port to encourage diversification, future growth and expansion.*'
- 2.8 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:

- 1. 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"

- 2.9 The Submitted SPLA includes the area of land identified as the 'Helipad'. The City Council have advised that this is an error on the Policies Map and are seeking through the examination to correct this. The accompanying Habitat Regulation Assessment (HRA) has been prepared on the basis of the 'Helipad' being excluded from the allocation.
- 2.10 The Port believes it has sufficient evidence to demonstrate the continuous use of the Land as a helipad/operational land since 1991 to the present day and therefore has applied to Lancaster City Council for a Certificate of Lawful Use for Existing Use ('the LDC'). The LDC was validated on 17 April 2019 by Lancaster City Council but is yet to be determined.
- 2.11 The site is included as HRA mitigation land for an operational wind turbine (14/00938/FUL). The only requirement for this land in respect of the planning permission was for it to be fenced, there were no further actions or safeguarding measures required.

3. Matters of Disagreement

- 3.1 Parties remain in dispute regarding the status of the helipad site in relation to the operational activities and permitted development rights of the port and in relation to the extent to which the land can be regarded as functionally linked to the Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar sites.
- 3.2 It remains the Ports view that the Helipad's use, both current and historical, provides a baseline use from which any future development should be measured against and that removal of the Helipad from the land allocation of Policy SG14 ignores this baseline use.

- 3.3 The Port consider that the de-allocation of the helipad land will severely inhibit the ability to bring forward growth and diversification opportunities in accordance with the "plan-led system" as essentially the land will become "white land"
- 3.4 The Port note that there was little or no consultation in respect of the removal of the Helipad from the land allocation between LCC and themselves. The City Council would note that the removal of the site was identified and consulted on as part of the Draft Suggested Modifications consultation in October 2018.
- 3.5 The City Council disagree with the above points. The Council is of the view the site has been identified as an important high tide roost functionally linked to Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar site.
- 3.6 Furthermore, the Council takes the view the land is also identified as mitigation land associated with an operational wind turbine (14/00938/FUL). Both of which would impact on the ports operational usage of this land. This would be the case regardless of whether the land was or was not included within the allocation with any suggested permitted development rights exercisable regardless of the inclusion of this land within the allocation.
- 3.7 The Port however disagrees with the view above. As set out in paragraph 2.11, the land was not part of a designated mitigation area where it was safeguarded nor was there any requirement to cease the existing use and put in place a habitat management plan. The only requirement was to fence the land. This does not preclude it to be used for any purpose which the Port sees fit,
- 3.8 Both parties agree that the HRA was prepared on the basis of the helipad site being outside of the allocation and agree that this needs to be corrected through the Local Plan process.
- 3.9 It remains the Councils position that this was a mapping error on its part which could be addressed via modifications to the plan to ensure consistency with the HRA. Natural England are noted to be in agreement with this.
- 3.10 Both parties agree that if the site is to remain within the allocation an amended and updated HRA would be required.

Signed –



Lancaster City Council
Morris Brophy, Planning & Housing Policy Manager

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Signed -



Heysham Port Limited
Warren Marshall, Group Planning Director