
STATUTORY INSTRUMENTS

2014 No. 2935

**The Able Marine Energy Park
Development Consent Order 2014**

PART 1

PRELIMINARY

Citation

1. This Order may be cited as the Able Marine Energy Park Development Consent Order 2014.

Interpretation

- 2.—(1) In this Order—

“the 1847 Act” means the Harbours, Docks and Piers Clauses Act 1847(1);

“the 1961 Act” means the Land Compensation Act 1961(2);

“the 1965 Act” means the Compulsory Purchase Act 1965(3);

“the 1980 Act” means the Highways Act 1980(4);

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- (1) [1847 \(10 & 11 Vict\) c. 27](#). Sections 12 and 13 were amended by [SR & O 1924/1370](#), section 1 of the Crown Estates Act 1956 (c. 53), and section 1 of the Crown Estate Act 1961 (c. 55). Sections 5, 24, 94 and 95 were repealed by the Statute Law (Repeals) Act 1993 (c. 50); section 26 was repealed by section 56(4) of, and Schedule 11 to, the Courts Act 1971 (c. 23); section 28 was amended by section 141 of, and Schedule 11 to, the Post Office Act 1969 (c. 48); sections 28, 54, 67 and 98 were amended by sections 37 and 46 of the Criminal Justice Act 1982 (c. 48); section 71 was amended by [S.I.1987/37](#); section 91 was repealed by the Statute Law Revision Act 1894 (c.56); section 93 was repealed by the Statute Law Revision Act 1875 (c.66); and section 96 was repealed by the Perjury Act 1911 (c. 6), section 17. There are other amendments to the 1847 Act which are not relevant to this Order.
 - (2) [1961 c. 33](#). Section 2(2) was amended by section 193 of, and paragraph 5 of Schedule 33 to, the Local Government, Planning and Land Act 1980 (c. 65). There are other amendments to the 1961 Act which are not relevant to this Order.
 - (3) [1965 c. 56](#). Section 3 was amended by section 70 of, and paragraph 3 of Schedule 15 to, the [Planning and Compensation Act 1991](#)(c. 34). Section 4 was amended by section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71). Section 5 was amended by sections 67 and 80 of, and Part 2 of Schedule 18 to, the Planning and Compensation Act 1991 (c. 34). Subsection (1) of section 11 and sections 3, 31 and 32 were amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67) and by section 14 of, and paragraph 12(1) of Schedule 5 to, the [Church of England \(Miscellaneous Provisions\) Measure 2006 \(2006 No.1\)](#). Section 12 was amended by section 56(2) of, and Part 1 to Schedule 9 to, the Courts Act 1971 (c. 23). Section 13 was amended by section 139 of the Tribunals, Courts and Enforcement Act 2007 (c. 15). Section 20 was amended by section 70 of, and paragraph 14 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c. 39). Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34) and by section 14 of, and paragraph 12(2) of Schedule 5 to, the [Church of England \(Miscellaneous Provisions\) Measure 2006 \(2006 No.1\)](#). There are other amendments to the 1965 Act which are not relevant to this Order.
 - (4) [1980 c. 66](#). Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act 1991 (c. 22); sections 1(2), 1(3) and 1(4) were amended by section 8 of, and paragraph (1) of Schedule 4 to, the Local Government Act 1985 (c. 51); section 1(2A) was inserted by and section 1(3) was amended by section 259(1), (2) and (3) of the Greater London Authority Act 1999 (c. 29); sections 1(3A) and 1(5) were inserted by section 22(1) of, and paragraph 1 of Schedule 7 to, the Local Government (Wales) Act 1994 (c. 19). Section 36(2) was amended by section 4(1) of, and paragraphs 47(a) and (b) of Schedule 2 to, the Housing (Consequential Provisions) Act 1985 (c. 71), by [S.I. 2006/1177](#), by section 4 of, and paragraph 45(3) of Schedule 2 to, the [Planning \(Consequential Provisions\) Act 1990](#) (c. 11), by section 64(1) (2) and (3) of the Transport and Works Act 1992 (c. 42) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c. 37); section 36(3A) was inserted by section 64(4) of the Transport and Works Act 1992 and was amended by [S.I. 2006/1177](#); section 36(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act

- “the 1984 Act” means the Road Traffic Regulation Act 1984⁽⁵⁾;
- “the 1990 Act” means the Town and Country Planning Act 1990⁽⁶⁾;
- “the 1991 Act” means the New Roads and Street Works Act 1991⁽⁷⁾;
- “the 2008 Act” means the Planning Act 2008;
- “AB Ports” means Associated British Ports, company reference number ZC000195, whose principal office is at 71-91 Aldwych, London WC2B 4HN;
- “address” includes any number or address used for the purposes of electronic transmission;
- “the approach channel” means the area bounded by co-ordinates (53°39.579’N, 00°13.223’W), (53°39.094’N, 00°12.296’W), (53°38.956’N, 00°12.570’W), (53°38.972’N, 00°12.631’W) and (53°38.956’N, 00°12.570’W) and shown on sheets 8 and 9 of the works plans;
- “area of jurisdiction” means the area within the limits of the harbour;
- “area of seaward construction activity” means the area of the sea within the Order limits;
- “authorised development” means the nationally significant infrastructure project and associated development described in Schedule 1 (authorised development) and any other development authorised by this Order, which is development within the meaning of section 32 of the 2008 Act;
- “the berthing pocket” means the area bounded by co-ordinates (53°39.506’N, 00°13.416’W), (53°39.496’N, 00°13.448’W), (53°39.515’N, 00°13.463’W), (53°39.537’N, 00°13.376’W), (53°38.972’N, 00°12.631’W) and (53°38.946’N, 00°12.678’W) and shown on sheets 4, 8 and 9 of the works plans;
- “the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;
- “building” includes any structure or erection or any part of a building, structure or erection;
- “carriageway” has the same meaning as in the 1980 Act;
- “Centrica” means Centrica Plc, company number 03033654, whose principal office is at Millstream, Maidenhead Road, Windsor, Berkshire, SL4 5GD, and all of its subsidiaries, and Group companies, transferees, assignees, etc., including but not limited to Centrica KPS Ltd, Centrica Storage Limited and Centrica Energy;
- “Cherry Cobb sands breach” means the area bounded by co-ordinates (53°39.427’N, 00°08.633’W), (53°39.457’N, 00°08.581’W), (53°39.554’N, 00°08.737’W) and (53°39.524’N, 00°08.789’W);
- “the Company” means Able Humber Ports Limited, company number 107029, registered at Ogier House, The Esplanade, St Helier, Jersey, JE4 9WG and whose UK branch is at Able House, Billingham Reach Industrial Estate, Billingham TS23 1PX;
- “the compensation environmental management and monitoring plan” means the plan for environmental management and monitoring on the north bank of the River Humber referred to in paragraph 19(1) of Schedule 11 (requirements);

1985 (c. 51); and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994 (c. 19). Section 329 was amended by section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c. 29) and by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c. 15). There are other amendments to the 1980 Act which are not relevant to this Order.

(5) 1984 c. 27.

(6) 1990 c. 8. Section 206(1) was amended by section 192(8) of, and paragraphs 7 and 11 of Schedule 8 to, the Planning Act 2008 (c. 29) (date in force to be appointed see section 241(3), (4)(a) and (c) of the 2008 Act). There are other amendments to the 1990 Act which are not relevant to this Order.

(7) 1991 c. 22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c. 26). Sections 79(4), 80(4) and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

“compulsory acquisition notice” means a notice served in accordance with section 134 (notice of authorisation of compulsory acquisition) of the 2008 Act;

“the Conservancy Authority” means AB Ports in its role as harbour authority for the River Humber;

“C.GEN” means C.GEN Killingholme Limited, company number 06422434, whose principal office is at 130 Shaftesbury Avenue, London, W1D 5EU;

“C.RO” means C.RO Ports (Killingholme) Limited, company number 00278815, whose principal office is at Clough Lane, North Killingholme, North Lincolnshire, DN40 3LX;

“the dockmaster” means the dockmaster appointed by the Harbour Authority under this Order;

“the design drawings” means the design drawings submitted under regulation 5(2)(o) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 and certified as the design drawings by the Secretary of State for the purposes of this Order;

“the ecology plans” means the plans certified as the ecology plans by the Secretary of State for the purposes of this Order;

“environmental management and monitoring plan” means all or any of the compensation environmental management and monitoring plan, the marine environmental management and monitoring plan and the terrestrial environmental management and monitoring plan;

“E.ON” means E.ON UK Plc whose registered office is at Westwood Way, Westwood Business Park, Coventry, West Midlands CV4 8LG (company registration number 02366970);

“harbour” means the authorised development within the limits of the harbour, and includes any works, land, buildings, ancillary works, plant, property and conveniences connected with it, as from time to time existing within the limits of the harbour;

“the Harbour Authority” means the Company in its capacity as harbour authority established by article 8 (jurisdiction of the Harbour Authority), or to the extent of any transfer under article 13(1)(a) (consent to transfer benefit of order), any transferee;

“the harbour master” means the harbour master appointed by the Conservancy Authority for the purposes of the Humber Conservancy Acts 1852 to 1951⁽⁸⁾ and the Humber Harbour Reorganisation Scheme 1966 Confirmation Order 1967⁽⁹⁾ to be a harbour master for an area that includes the area of jurisdiction and includes the harbour master’s deputies and assistants;

“highway” and “highway authority” have the same meaning as in the 1980 Act;

“the land plans” means the plans certified as the land plans by the Secretary of State for the purposes of this Order;

“level of high water” means the level of mean high-water springs;

“limits of deviation” means the limits of deviation shown on the works plans;

“limits of the harbour” means the boundary line shown on the plan at Schedule 10 (limits of harbour);

“maintain” includes to inspect, repair, adjust, alter, remove, reconstruct or replace and any derivative of “maintain” is to be construed accordingly;

“the marine environmental management and monitoring plan” means the plan for environmental management and monitoring below the high water mark referred to at paragraph 19(2) of Schedule 11;

“MMO” means the Marine Management Organisation;

⁽⁸⁾ 1852 c. cv; 1868 c. lviii; 1871 c. civ; 1876 c. cxxix; 1899 c. cci; 1905 c. clxxix; 1907 c. xcvi; 1951 c. xv.
⁽⁹⁾ S.I. 1968/237.

“Network Rail” means Network Rail Infrastructure Limited, company number 02904587 registered at Kings Place, 90 York Way, London N1 9AG;

“Order land” means the land shown on the land plans as within the boundary of land required for or affected by the proposed development, and described in the book of reference;

“the Order limits” means the limits shown as the limits within which the authorised development and works may be carried out on the works plans;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(10);

“the planning application drawings” means the drawings referred to in paragraph 6(a) of Schedule 11;

“plans” include sections, elevations, drawings, specifications, programmes, method statements and hydraulic information;

“the pumping station outfall” means the area bounded by co-ordinates (53°38.993N, 00°13.188W), (53°38.956N, 00°13.085W), and (53°38.926N, 00°13.138W) and shown on sheets 3 and 9 of the works plans;

“the quay limits” means the area bounded by co-ordinates (53°39.457’N, 00°13.681’W), (53°39.464’N, 00°13.662’W), (53°39.447’N, 00°13.645’W), (53°39.487’N, 00°13.546’W), (53°39.475’N, 00°13.511’W), (53°39.506’N, 00°13.416’W), (53°38.946’N, 00°12.678’W), (53°38.876’N, 00°12.849’W), (53°38.984’N, 00°13.165’W) and (53°38.985’N, 00°13.178’W) and shown on sheets 8 and 9 of the works plans;

“relevant planning authority” means the local planning authority for the area in which the relevant land to which the provisions of this Order apply is situated;

“requirement” means any requirement set out in the relevant paragraph of Schedule 11;

“the rights of way plans” means the plans certified as the rights of way plans by the Secretary of State for the purposes of this Order;

“the sections” means the sections referred to in paragraph 6(c) of Schedule 11;

“statutory undertaker” means a person falling within the definition of statutory undertaker in section 127(8), 128(5) or 129(2) of the 2008 Act;

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageway, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“the terrestrial environmental management and monitoring plan” means the plan for environmental management and monitoring above the high water mark on the south bank of the River Humber referred to at paragraph 19(3) of Schedule 11;

“tidal work” means so much of any work or operation authorised by this Order as is on, under or over tidal waters or tidal lands below the level of high water;

“tree preservation order” has the meaning given in section 198 of the 1990 Act;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“turning area” means the area bounded by co-ordinates (53°39.406’N, 00°12.893’W), (53°39.414’N, 00°12.524’W), (53°39.112’N, 00°12.261’W) and (53°39.094’N, 00°12.296’W) and shown on sheets 8 and 9 of the works plans.

(10) 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to the 1981 Act which are not relevant to this Order.

“the undertaker” means the person who has the benefit of this Order in accordance with section 156 of the 2008 Act and articles 12 (benefit of order) and 13 (consent to transfer benefit of order);

“the undertaking” means the harbour undertaking of the undertaker as authorised from time to time;

“vessel” means every description of vessel or water-borne structure, however propelled, moved or constructed, and includes displacement and non-displacement craft, personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over or placement in water and which is at the time in, on or over water;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“the works plans” means the plans certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the air-space above its surface.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are to be taken to be measured along that work.

Incorporation of the 1847 Act

3.—(1) With the exception of sections 6 to 23, 25, the proviso to section 28, section 31, the proviso to section 32, sections 35, 36, 38, 39, 42, 43, 45, 48 to 50, 53 to 55, 59 to 64, 66 to 69, 71 to 73, 76 and 79 to 90, 92, 97, 98 and 102, the 1847 Act is incorporated in this Order subject to the modifications stated in paragraph (2).

(2) In construing the 1847 Act as so incorporated—

- (a) the expression “the special Act” means this Order;
- (b) the expressions “the Promoters of the undertaking” and “the undertakers” mean the undertaker;
- (c) the expression “the harbour, dock or pier” means the authorised development within the area of jurisdiction;
- (d) the expressions “limits” and “prescribed limits” mean the area of jurisdiction;
- (e) the expression “near the pier” does not extend beyond the area of jurisdiction;
- (f) the expression “the harbour master”, in relation to the authorised development means the harbour master as defined in article 2(1) (interpretation);
- (g) the definition of “vessel” in article 2(1) is to be substituted for the definition in section 3 (interpretations in this and the Special Act) of the 1847 Act; and
- (h) any requirement to comply with a notice or direction given by the harbour master is to be construed as including a requirement that, in complying with such notice or direction, a person who is subject to the notice or direction must also comply with any relevant notice or direction given by AB Ports or the harbour master in the exercise by either or both of them of any function conferred by or under any enactment (including this Order).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Modification of enactments

4.—(1) Sections 25 and 26 of the River Humber Conservancy Act 1852(**11**), section 9 (licences for execution of works) of the Humber Conservancy Act 1899(**12**) and section 6(2) (no erections in Humber below river lines or without licence above river lines) of the Humber Conservancy Act 1905(**13**) do not apply to the authorised development.

(2) The requirement to obtain consent under section 23(1) of the Land Drainage Act 1991(**14**) does not apply to the authorised development.

(11) 1852 c. cxxx.

(12) 1899 c. cci.

(13) 1905 c. clxxix.

(14) 1991 c. 59.