

<b>Case study</b>	<b>Hull Riverside Container Terminal</b>		
<b>Location</b>	<b>Humber Estuary, England</b>		
	<i>Development planning example</i>		<i>Development control example</i> X
<b>A</b>	<b>Summary of the issues raised</b>		
<p>Issues raised in relation to marine planning include:</p> <ul style="list-style-type: none"> <li>• How linkages will work between the marine planning system and the existing Harbours Act – it is necessary to examine timing issues in relation to the preparation of HROs, which at present is ad-hoc, vis-à-vis Marine Plans in terms of: <ul style="list-style-type: none"> <li>• conformity</li> <li>• consolidation of socio-economic and environmental aspirations</li> </ul> </li> <li>• Marine plans may serve to enable a more strategic/spatial approach to harbour development</li> <li>• Linkages between Marine Plans and RSSs and LDFs in relation to conformity, aspirations and timing</li> <li>• There is a need to consider in more detail harbour development and future coverage by the IPC. Port development would now fall under the remit of the IPC therefore the influence of marine plans compared with the National Policy Statement required by the Planning Act 2008 must be explored.</li> <li>• Marine Plans may serve to consolidate the raft of management plan already in existence in the Humber. The HERAG has integrated these organisations with their roles, activities and objectives brought together within the Humber Management Scheme which has, to so some extent, encouraged linkages between strategies. However, as Burdon and Cutts (2008:5) argue, <i>'there is no overall co-ordination of all relevant plans...in fact, whilst the Humber Management Scheme has drawn together a number of management initiatives, planning management remains fragmented between the relevant planning authorities around the Humber'</i></li> </ul>			
<b>B</b>	<b>Description of the plan or development</b>		
<p>The development of the Hull Riverside Container Terminal provides an example of development permitted principally via a Harbour Revision Order (HRO). This Order relates to the construction of a lift-on, lift-off (lo-lo) handling facility to accommodate vessels with a draught of up to 10.4metres comprising:</p> <ul style="list-style-type: none"> <li>• reclamation of 7.5ha of the Humber riverbed</li> <li>• deepening, dredging, alteration and improvement of the bed, shores and channels of the River Humber adjoining or at the approaches of the works to maximum depth of 11.5m</li> <li>• temporary diversion of a riverside footpath during construction works</li> <li>• permanent stopping up and substitution of part of the footpath with a footbridge</li> <li>• construction of a noise barrier</li> </ul>			
<b>C</b>	<b>Description of the baseline environment and constraints</b>		
<p>The Humber Estuary is one of the largest estuaries in the UK and drains over one fifth of all land in England, providing the largest single output of fresh water from the UK into the North Sea. The Humber plays a vital economic role in the Humber region and the Humber estuary ports (comprising Grimsby Immingham, Hull and Goole and other wharves) handled 92.59 million tonnes of freight traffic in 2007, accounting for 16% of all UK ports traffic. It is estimated that port dependent businesses at Humber ports support approximately 47,000 direct, indirect and induced jobs, equating to 2% of regional employment and 12.3% of employment in the areas immediately surrounding the Humber. The Estuary also supports extensive and diverse wildlife and natural habitats and is recognised as an area of international importance for wildlife with Ramsar, SPA and SCI designations.</p> <p>The Humber Estuary is governed by multiple local planning authorities and some of the Humber seabed is within LPA boundaries. It therefore provides a useful case study in relation to coastal flood risk management, sediment transport, major developments, protected areas, biodiversity generally and landscape/seascape.</p> <p>The site covered by the HRO is 7.5ha and originally comprised a derelict timber pier structure and sheds and enclosed 4ha of tidally exposed mudflat. Some 9ha of existing dockland to the rear and north of the Order site was identified for storage and ancillary purposes to be pursued in association with the proposed quay.</p> <p>At the time of the Public Inquiry, the Order site did not form part of a statutory nature conservation site although it lay within 100m of sites of European, international and/or national nature conservation importance. However, in the period between the inquiry and decision of the Secretary of State, consent was given to undertake consultation in</p>			

respect of the designation of additional estuary habitat sites and features of interested, the result being that the Order site fell within the new boundary of a potential SPA/Ramsar site and possible SAC.

<b>D</b>	<b>Description of the planning baseline</b>
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### **Regional Planning Guidance (RPG) 12**

RPG 12 recognises the potential of Hull and the Humber Region to provide major links between Ireland, the UK and continental Europe. It should be noted that RPG12 has now been replaced by the Yorkshire and Humber Regional Spatial Strategy (May 2008)

### **The Yorkshire and Humber Plan: Regional Spatial Strategy to 2026 (May 2008)**

The Yorkshire and Humber Plan is the statutory Regional Spatial Strategy (RSS) for Yorkshire and Humber and aims to guide development over the next 15 to 20 years. It forms part of the statutory 'development plan' for each district or unitary local authority area.

The RSS sets out a spatial vision for the region seeking more sustainable patterns and forms of development; investment and activity; a greater emphasis on matching needs with opportunities; and managing the environment as a key resource. The Humber Estuary is identified as a sub regional area (see Section 5) and corresponds to the Hull and Humber Ports City Region identified in the Northern Way Growth Strategy. Policy HE1 sets out the requirements for plans, strategies, investment decisions and programmes for the Humber Estuary sub area based around the following 7 themes:

- roles and functions of places
- economic development
- environment
- transport
- strategic patterns of development
- regionally significant investment priorities
- joined up working

This policy recognises the importance of the Humber ports and the need to accommodate additional "estuary-related uses" as well as its significance in terms environmental and biodiversity assets. Part of the Estuary is also within the Coast sub regional policy area, the desired outcome of which is to protect and enhance the coast and promote its assets as a driver to improve the quality of places and to diversify their economic role. Policy C1 states that plans, strategic, investment decisions and programmes should, among other objectives:

- protect and enhance the unique character, heritage and biodiversity of the undeveloped coast and coastal waters, and protect the integrity of internationally important biodiversity sites
- avoid the risk from flooding, erosion and landslip along the coast, through roll-back approaches to relocate existing uses
- improve marine water quality and maintain and extend 'blue flag' standards
- improve the public realm and quality of the built environment of coastal resorts and the coast's natural environment as the basis for economic diversification and regeneration
- promote developing economic and social partnerships and partnership approaches to coastal, shoreline and marine management and conservation through Integrated Coastal Zone Management Plans, Shoreline Management Plans and Heritage Coast Management Plans

The RSS also contains the Regional Transport Strategy. Policy T7, which relates specifically to ports and waterways, states that the region will optimise the use of its ports and waterway assets whilst protecting the environment and in particular the integrity of the Humber Estuary's internationally important biodiversity.

### **Joint Structure Plan for Kingston Upon Hull and the East Riding Of Yorkshire (Adopted June 2005)**

The Joint Structure Plan (JSP) recognises, and places a strong emphasis on, the strategic importance of the Humber Estuary and ports to the local and national economy and refers to the Humber Trade Zone (HTZ) initiative, a concept proposed by Yorkshire Forward in its Regional Economic Strategy, which seeks to:

- generate more trade, particularly higher-value operations around the Estuary;
- target support at specific Estuary and related industries;
- overcome constraints to the use of transport infrastructure, land and premises; and
- build on the role of Hull as a gateway into the UK.

The JSP seeks to locate strategic employment sites around the port of Hull (Policy EC2) and aims to protect the area's strategic network of waterways and ports (Policy T4).

#### **Hull City Plan (Adopted May 2000)**

The Hull City Plan (the City Plan) states that the development of the local economy is likely to be greatly influenced by activities associated with the Port and the City's position in relation to mainland Europe and as such it aims to encourage the development of the Port area (Policy E6). Chapter 15 of the City Plan relates specifically to dockland. Regarding the Hull Riverside Container Terminal, the Plan (paragraph 15.29) states that it '*provides a framework so that a decision, in connection with assessing the merits and disbenefits of the proposal, can be made*'. Policy D7 supports in principle the development of the quay by ABP providing that the following criteria are met:

- the impact on the environment is acceptable
- it complies with other relevant policies contained within the plan
- any consequent footpath diversion are acceptable

#### **Planning for the Rising Tides: The Humber Estuary Shoreline Management Plan (September 2000)**

The Shoreline Management Plan (SMP), which has since been replaced by The Humber Flood Risk Management Strategy (2008), set out the Environment Agency's strategy for managing the flood defences of the Humber Estuary. It was underpinned by two key objectives:

- i. to develop a coherent and realistic plan for the estuary's flood defences;
- ii. to be sure that all proposals are technically feasible, economically viable; environmentally appropriate; and socially acceptable.

With specific regard to port development, the SMP recognised that port facilities play a vital role in promoting the economy but that development may affect estuary protection and the standard of protection required locally. As such, the SMP aimed to avoid adversely affecting navigation in the estuary or opportunities for its development. The Riverside Container Terminal was covered specifically by Management Unit 2: Paull to North Ferriby which recognised that ABP are responsible for defence around ports areas and that overall condition is fair to good.

#### **Humber Flood Risk Management Strategy (March 2008)**

The Humber Flood Risk Management Strategy has replaced the Humber Estuary Shoreline Management Plan which was published in 2000. The document, which is to be reviewed every 5 years, sets out the long-term strategy for managing flood risk around the Humber Estuary and the lower reaches of its main tributaries with the overall aim to '*manage the risk of flooding around the Humber Estuary in ways that are sustainable for the people who live there, the economy and the environment*' and to ensure that all proposals are '*technically feasible, economically viable and environmentally appropriate and socially beneficial*.' The Strategy comprises a series of management proposals for individual flood areas which include the following main features:

- to manage flood risk around the estuary to protect people and property by:
  - continuing to maintain existing defences where this is sustainable
- to withdraw maintenance from defences that are uneconomic and examine other ways of protecting people and property where this happens, including:
  - building secondary lines of defence;
  - advising people on how to prepare for flooding
- to move defences where doing so will:
  - provide flood storage to help manage water levels during serious floods and so benefit others;
  - allow the EA to stop maintaining defences that are uneconomic;
  - replace inter-tidal habitat lost because of the strategy.

The preparation of the strategy involved widespread consultation including a Steering Group which reviewed progress on the strategy and comprised local authorities, Natural England, ABP, the Humber Estuary Management Strategy group and the CHaMP Review Group (which is drawn from organisations with conservation interests).

#### **Humber Management Scheme (May 2006)**

The aim of the HMS is to '*subject to change, maintain the favourable condition of the site through the sustainable management of activities*'. It incorporates English Nature's (now Natural England) advice designed to maintain the habitats and species of the Humber in favourable condition. The HMS has studied a range of activities around the Humber and sets out management actions in respect of each.

The HMS was prepared by the Humber Estuary Relevant Authorities Group (HERAG) which comprises 34 relevant authorities (including English Nature and the EA) with a statutory role in the management of the Humber Estuary (to

meet the requirements of Regulation 34 of the Habitats Regulations) and takes advice from the Humber Advisory Group (HAG).

Management Actions in relation to shipping and navigation are contained within Annex I including the development of dock, ports and marinas (Activity I7).

<b>E</b>	<b>Description of the plan development process (for development planning cases) or the authorisation process (development control cases) – under the existing system</b>
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The HRO was applied for by Associated British Ports (ABP) under Section 14 of the Harbour Act 1964. HROs, granted by the Secretary of State (SoS) for Transport, amend or extend existing statutory powers of harbour authorities and can be applied for by the harbour authority concerned or by a person having a “substantial interest” in the harbour. For the application to be granted, the SoS must be satisfied ‘*that the making of the order is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea*’ (Section 12(2)(b)). Objections to the application can be made over a 42 day period from advertisement of the application during which time the Department for Transport (DfT) undertakes consultation with its own standard consultees. If any objections are made that cannot be addressed, a public inquiry is held (on a similar basis to planning inquiries) prior to decision by the SoS.

The application, which included Appropriate Assessment and EIA in accordance with the requirements of the Harbour Works (Environmental Impact Assessment) Regulations 1999 and Habitats Regulations 1994, was subject to public inquiry, with the Inspector recommending that the Order should not be made due to:

- failure to meet the requirements of Policy D7 of the Local Plan (although Section 38 (6) of the Town and Country Planning Act does not apply to Harbour Act proposals);
- proximity of the proposed site to Victoria Dock Village;
- potential adverse effects on living conditions of local residents, particularly as a result of noise;
- negative effect on visual amenity;
- incompatibility with national transport policies- i.e. reliance on road transport and lack of provision for rail freight; and
- potential for the environmental impact of the scheme to undermine confidence in the long-term quality of city centre regeneration schemes and the wider regeneration of Hull.

However, the SoS disagreed with the Inspector’s recommendations and made the Order with modifications. It should be noted that this decision took into account the potential change in nature conservation status of the site as described above (i.e. its proposed inclusion with the extended potential Humber Estuary SPA, possible Ramsar site and cSAC) and the potential for the scheme to adversely affect these sites as a result. In respect of this matter, the SoS concluded, following a second Appropriate Assessment, that no alternative sites were available and that there were imperative reasons of overriding public interest relating to the socio-economic benefits of the scheme (i.e. the potential of Hull and of the Humber Region to provide a major link between Ireland, the UK and continental Europe and its strategic significance to the Northern Way initiative for the regeneration of the North of England). The SoS also concluded that a Compensation Agreement between ABP, English Nature, the EA, RSPB and Wildlife Trust was adequate to meet the requirements of Regulation 53 of the Habitats Regulations. This Agreement, which included the provision of 6ha of land for the creation of inter-tidal habitat, was the product of a stakeholder group formed to negotiate the compensation package for both this project and the development of Immingham Outer Harbour. The process was regarded as the first of its kind in the UK and meant that conservation organisations withdrew earlier objections. Overall, the agreement included the creation of 57ha of mudflats and saltmarsh and 6ha of grassland at a cost of £3.5m. This also contributed to the EA’s plan for flood defence.

**Town and County Planning (General Permitted Development) Order 1995**

In addition to the Harbour Revision Order, an application for prior approval of the detailed plans and specifications, roosting structures and footbridge was made under Part 11 of the Town and County Planning (General Permitted Development) Order 1995 which permits development authorised by an order under section 14 or 16 of the Harbours Act 1964 subject to prior approval of the appropriate authority (for development which comprises the erection, construction, alteration of any building, bridge, aqueduct, pier or dam, or the formation, laying out or alteration of a means of access to any highway). No representations were submitted in respect of this application and prior approval was granted.

<b>F</b>	<b>Implication of planning proposals under the Marine and Coastal Access Bill</b>
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The draft Marine Bill aims to simplify and streamline the consenting process with respect to harbour development by:

- making it possible for the MMO (for England) to be responsible for both Harbour/Empowerment/Revision Orders and FEPA licensees (Marine Act Licences in the future);
- enabling both consents to be dealt with simultaneously;
- making it possible for Harbour Orders to consider drainage and flood risk issues;
- amending the Harbours Act to ensure that public inquiries into draft Harbour Orders are only held when 'serious' or 'substantial' issues are raised or when the SoS decides that one should be held; and
- working with harbour authorities, dredgers and others to examine the exemption of dredging from marine licensing.

However, major port developments will be authorised by the IPC.

<b>G</b>				
<b><i>Inputs of project partners and lessons learnt</i></b>				
	EA	NE	CCW	NT
Involvement	✓	✓		
Inputs	Consultee on scope and content of EIA Statutory consultee on HRO application Consultee on application for prior approval EA was a member of stakeholder working group which developed the Compensation Agreement	Statutory conservation advisor to the SoS Consultee on Appropriate Assessments prepared by applicant and SoS Consultee on scope and content of EIA Statutory consultee on HRO application Consultee on application for prior approval NE was a member of stakeholder working group which developed the Compensation Agreement		

**Type of involvement/input and resources:**

In addition to inputs identified above, both Natural England and the Environment Agency are involved in the development of management plans covering the Humber Estuary including:

**Environment Agency**

- consultees in respect of RSS and LDFs
- lead agency in the development of the Humber Flood Risk Management Strategy and partner in the production of the BAP, CHaMP
- member and Chair of HERAG
- partner in HEC

**Natural England**

- consultee and involvement in respect of RSS and LDFs
- member of HERAG and partner in HECA
- partner in development of the BAP and CHaMP
- member of Humber INCA (Humber Industry Nature Conservation Association (INCA), established in 2002 '...to help business development continue hand in hand with nature conversation')

<b>H</b>	<b><i>The effect the marine planning system may have on the way partners get involved, to their effectiveness in the process and to the staff resources required</i></b>
<p><i>Partner remits</i></p> <ul style="list-style-type: none"><li>• If flood risk and drainage issues are to be considered within Harbour Orders, with EA agreement, will this reduce demand for EA involvement in coastline managed by harbour authorities?</li><li>• If the majority of dredging (even where not covered by a local Act or Order) is to become exempt from marine licencing, will this undermine the remits of the partners?</li><li>• The preparation of Marine Plans is likely to add additional resource pressures</li><li>• There is already strong partnership working in the Humber Estuary, principally via the HERAG, as evident in the Compensation Agreement referred to in Section E. How will these existing partnerships be incorporated within the development of Marine Plans?</li></ul>	