

## REPORT OF PLANNING DEVELOPMENT CONTROL COMMITTEE

(Special Meeting held on 20 March 2001)

### 1. PORT DEVELOPMENT AT DIBDEN BAY – FURTHER ASSESSMENT REPORT A) (MINUTE NO. 32)

All Members of the Council had been invited to discuss the further views to be expressed to the Department of the Environment, Transport and the Regions (DETR) on the proposals for port development at Dibden Bay that had been submitted by Associated British Ports.

The Committee received presentations from a number of public participants. They were also advised that the DETR had received some 6,500 representations on the proposals.

Members recalled that on 9 November 2000 (Minute 8 refers) they had agreed their initial views on these proposals. As a consequence, a formal objection had been made to the DETR by the deadline for the receipt of views on 13 November 2000. It had been made clear that these views were based on a preliminary consideration and that a further, more detailed, assessment would be carried out. Members considered their further views, on the understanding that these would evolve as the process of assessment continued, particularly in the run-up to a Public Inquiry.

Members recalled that they had also expressed concern to MAFF about 3 applications for licenses under the Food and Environmental Protection Act 1985 (Minute 9, 13 December 2000 refers).

Members were reminded of the various applications under consideration. These were:

- (i) A Harbour Revision Order submitted under the Harbours Act 1964 for the development of a new container port and associated facilities including road and rail accesses. This had been submitted to the DETR and the Council was a statutory consultee;
- (ii) A Transport Works Act Order submitted under Section 1 of the Transport and Works Act 1992 for works and new trackwork on the Fawley Branch Railway Line. This had also been submitted to the DETR, and the Council was a statutory consultee;
- (iii) Two planning applications under Section 57 of the Town and Country Planning Act 1990. The first application sought widening, junction redesign and other works to the A326 (planning application 70243). The second application sought consent for the erection of noise barriers on parts of the Fawley branch railway line (planning application 70255). These applications had been submitted to this Council, but the Secretary of State has decided to call them in for determination with the rest of the proposals. The Council was therefore a statutory consultee; and
- (iv) A series of other consents on which the Council was a consultee. These were:

- a) An application for the diversion of Hythe Road, made under Section 248 of the Town and Country Planning Act 1990. This application had been made to the DETR;
- b) A request for an Exchange Land Certificate involving land at the former Westcliff Hall Hotel in Hythe as open space, in exchange for the area known as Hythe Marina Bund. This application was also made to the DETR; and
- c) Three applications for consents under the Food and Environmental Protection Act 1985. These applications sought consents to deposit dredged material at The Nab; the deposit of dredged material between Hythe and Cadland Creek as an inter-tidal recharge; consents in relation to the construction of the quay wall of the terminal; and consents for the construction of jetties. These applications had been made to the Ministry of Agriculture, Fisheries and Food.

No date had yet been set for the Public Inquiry, although it was anticipated that it would start in September 2001. A pre-inquiry meeting would be held on 23 April. The Committee must submit an outline statement of case to the DETR by 28 March 2001.

Members were advised that Hampshire County Council had formally objected to the proposals from a strategic perspective, and had resolved to pursue such objection at the Public Inquiry.

With respect to the planning applications (70255 & 70243), Members were advised of the relevant policy considerations, and also of the responses that had been received to the public consultations, as attached at Appendices A and B to Report A.

The Committee was advised of the further work which had been undertaken to assess the proposals. This included the commissioning of reports from various consultants. Copies of the consultant's reports which were available to date had been placed in the Members' Room for reference. The assessment process sought to establish, and to balance, the need for the development and its impact. This work was set within the context of the national, regional, strategic and local policy framework. This work was continuing. It addressed the more general effects at this stage, but would concentrate on the effects on individual communities and even smaller areas, as the process developed.

Members were advised that it was considered that the Appropriate Assessment of the proposals that had been carried out by ABP, in its role as "Competent Authority" under the Conservation (Natural Habitats etc) Regulations 1994 was flawed. It did not comply with the guidelines produced by English Nature, nor did it properly explore alternatives to Dibden Bay at a national level. In addition, this approach was in conflict with the status of the New Forest as a proposed National Park, and had not adequately addressed the tests for such development contained in PPG7 (The Countryside).

Members were advised of progress in assessment under the following headings:

- UK Container Capacity Demand
- Impact on Local Communities
- Impact on the Strategic Gap
- Impact on the Landscape
- Impacts on Ecology and Hydrology (including the proposed mitigation measures)
- Transport Impact
- Economic Impact
- Pollution, Noise and Other Impacts on local communities
- Land Drainage Impact
- Impact on Recreation, Leisure and Tourism
- Related Development Pressure
- Public Safety
- Further Assessment of the Need Case.

Members discussed a number of matters which caused them concern. These included:-

- The wider effects of the additional railway routes, including additional closure of the level crossing in Junction Road and consequent effects on the community of Totton; and conflict with movements on the existing rail network.
- The effects of additional HCV movements on all the settlements along the Waterside, and beyond into the Forest. In addition, traffic congestion along the A326, A35 and neighbouring local roads.
- The inadequacy of enforcement of HCV routes and the consequent need for sufficient control of HCV movements to prevent or minimise such traffic through the Forest. This might need additional statutory monitoring and control measures and other solutions.
- The overall effect of the proposals on the health and quality of life residents along the Waterside, and wider within the New Forest District.
- Concern over the accuracy of the modelling of the effects of the dredging and port development on the stability of the Saltmarshes, and the consequent conclusions that might be drawn from such modelling.
- Concern that the assessment of wave action did not recognise the height of bow waves that might be generated by larger ships, or by wind action.

- Concern over the potential release of toxic materials into to the Saltmarshes as a result of the dredging and recharging operations.
- Concern that the recharge might destroy the Saltmarshes it was designed to assist, thereby making further habitats unavailable for use as feeding grounds by the bird population.
- The loss of the amenity value of land at Hythe Marina Bund and its replacement with land at a more remote location.
- The possibility that development might be in a flood plain and exacerbate flooding problems elsewhere.

Members were also advised on progress in the assessment of the need case for the development. The Council's assessment was set within the context of the national need for container capacity, rather than the more limited assessment of the needs of Southampton Port.

In a number of instances, ABP had been asked to provide additional information, or clarification.

Members were advised that the Council had recently received Notice from the Secretary of State of his intention to issue an Exchange Land Certificate regarding the Hythe Marina Bund and proposed Westcliff Hall open space. This was a statutory procedure which did not indicate the final decision. It was likely that this issue would be determined as part of the Public Inquiry.

The overall conclusions of the assessment process to date were set out in Section 12 of the report.

The Officers were congratulated on the quality of this report.

**RECOMMENDED:**

- a) That following its further assessment of the Dibden Bay port development applications, the Department of the Environment, Transport and the Regions be informed that this Council restates its objection to the proposals;***
- b) That the DETR be informed that this Council does not consider that an over-riding case has been made regarding the need for the development, and that the Council's initial concerns about the impact of the development proposals have been reinforced following further assessment, in line with the comments contained in Report A and as set out above;***
- c) That the District Council should, accordingly, continue to assess the development proposals and should present its objections and concerns at the forthcoming Public Inquiry;***

- d) ***That the DETR be informed that this Council also restates its view that the Appropriate Assessment has not been carried out in accordance with relevant guidance, and is therefore inadequate. The DETR should therefore require this Appropriate Assessment to be revised and resubmitted, prior to the Public Inquiry;***
- e) ***That the DETR be informed that this Council would have refused planning application 70255 (erection of noise barriers along the Fawley Branch Line) on the grounds that:***
- (1) the proposed noise barriers, by virtue of their height, size, design and proximity to neighbouring residential properties, represent an inappropriate and visually intrusive form of development , to the detriment of the residential and visual amenities of neighbouring occupiers, contrary to policy DW-E1 of the New Forest District Local Plan; and***
  - (2) the applicant has not submitted sufficient details concerning the design of the proposed noise barriers. Consequently, the Local Planning Authority has been unable to determine whether the proposed noise barriers would be adequate in their design and construction to offset the impact of the increased noise arising from the additional rail traffic as a result of the port development proposals;***
- f) ***That the DETR is informed that this Council would have refused planning application 70243 (works along the A326) on the grounds that:***
- 1) the need for a new container port has not been adequately demonstrated;***
  - 2) there is currently inadequate information to fully assess the following issues:***
    - (i) whether the highway proposals can adequately and safely deal with the volume of traffic generated by the overall port development; and***
    - (ii) whether the highway proposals would give rise to significant additional environmental disturbance to people living in the vicinity of the A326, due to the increased volume of traffic using the A326 and the likelihood of traffic diverting onto other local roads.***
  - 3) it is likely to result in increased HCV traffic on local and Forest roads where controls in respect of the enforcement of HCV routes are currently inadequate without further statutory measures***

- g) That this Council formally objects to the Notice of Intention to issue an Exchange Land Certificate, and that the objections set out in Appendix C to Report A, be strengthened to highlight that the proposed exchange of land will be in a more remote location and consequently of lesser amenity value to the residents of the Marina and the wider community, and forwarded to the Government Office for the South East;**
- h) That officers be authorised to enter into discussions with ABP as appropriate with a view to resolving any objections if possible;**
- i) That the Chief Executive and the Director of Environment Services be given authority, in consultation with the Leader of the Council, and the Economy and Planning Portfolio Holder, to take any action necessary to enable the Council to respond quickly and effectively on matters relating to the Council's objections and its presence at the forthcoming Public Inquiry.**

Cllr Mrs P A Wyeth  
CHAIRMAN