

Bron Curtis
 Principle Planning Officer
 Babergh and Mid Suffolk District Councils
 Endeavour House
 8 Russell Road
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21st June 2022.

Dear Bron

Proposed access road improvements at the Port of Ipswich – Consultation under Part 8, Class B of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the GPDO)

I write on behalf of Associated British Ports (ABP) Port of Ipswich.

ABP propose to undertake some road access improvements at the Port of Ipswich at an area formerly known as the Ash Tip Site. ABP will be relying upon permitted development rights granted by Part 8, Class B of the GPDO in respect of the proposed works, and the purpose of this letter is to undertake consultation with Babergh District Council as one of the relevant local planning authorities, as required by condition B.1A of Part 8, Class B of the GPDO.

The Proposed Development – The development proposed by ABP consists of the widening of an existing access road and the extension of that access road to provide improved vehicle access to a variety of existing port facilities, port facilities under development and future port development areas (which require ongoing land maintenance activities) located within the Ash Tip Site area of the Port. A plan showing the proposed development is attached for information, with the extended roadway shown edged red and the local authority boundary line marked in blue.

ABP considers that Part 8, Class B rights can be relied upon in respect of the proposed development for the reasons now summarised.

(i) The proposed development is taking place on operational land of a statutory undertaker – namely ABP.

As has been previously explained to the Council the term ‘statutory undertakers’ is defined in section 262 of the Town and Country Planning Act 1990 (TCPA 1990) as meaning - “persons authorised by any enactment, to carry out any water transport,.....dock, harbour undertaking.....”

ABP is a statutory undertaker for the purposes of Part 8, Class B GPDO rights, having been created by the provisions of the Transport Act 1981, section 9(1) of which defines its general duties as including the provision of “port facilities at its harbours to such an extent as it may think expedient”.



Operational land is defined in sections 263 and 264 of the TCPA 1990. In general terms it includes:

- (i) land owned by ABP and its predecessors since before 6 December 1968 and used for the purpose of carrying on their undertaking or held for that purpose, or
- (ii) land owned by ABP and its predecessors since 6 December 1968 for which
 - (a) *"there is, or at some time has been, in force with respect to it a specific planning permission for its development and*
 - (b) that development, if carried out would involve or have involved its use for the purpose of the carrying on of the statutory undertakers' undertaking."* (section 264(3))

As has been previously explained to the Council, ABP consider that this part of the port estate falls within the ambit of section 264(3) above by virtue of two planning permissions - ref I/98/0939/FP and ref B/98/01529 granted by Ipswich Borough Council and Babergh District Council – that authorised the use of the site for port operational purposes.

(ii) The development is being carried out by an appropriate body – namely ABP.

The works will be undertaken by ABP – who are the appropriate statutory undertaker able to benefit from Part 8, Class B rights.

(iii) The development falls within the description of development permitted by Part 8, Class B.

The proposed development can be said to be required *"in connection with the embarking, disembarking, loading, discharging or transport ofgoods at a dock,... or harbour, .."* It, therefore, clearly falls within the description of development permitted by Part 8, Class B.

(iv) No class specific restrictions or conditions apply.

None of the class specific restrictions or conditions set out in paragraph B1 of Part 8, Class B apply to the proposed development.

(v) No part of Article 3 of the GPDO restricts or removes the use of Part 8, Class B rights in respect of the proposed development.

One aspect of Article 3 which ABP considers requires analysis is that relating to Environmental Impact Assessment (EIA) development. Article 3(10) and 3(11) of the GPDO collectively make it clear that development which requires EIA cannot be undertaken by reliance upon Part 8, Class B rights.

Article 3(10) makes reference to 'Schedule 1' and 'Schedule 2' development as defined in the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations).



The proposed development is not Schedule 1 development for which EIA would be mandatory.

In respect of Schedule 2 development, the proposed development can be said to fall within the category of development described in Schedule 2, paragraph 10(g) – namely the ‘Construction of harbours and port installations including fishing harbours where the area of the works exceeds 1 hectare.’

ABP has calculated the area of the works for the proposed development and this amounts to some 0.52 ha. On this basis, therefore, the proposals do not constitute Schedule 2, paragraph 10(g) development, and, therefore, cannot be EIA development.

I should add in this context that no part of the proposed development is located within a ‘sensitive area’ as defined in the EIA Regulations which would automatically make the development a Schedule 2 development.

On the basis of the above, ABP concludes that the ability to rely upon Part 8, Class B permitted development rights is not restricted as a result of EIA considerations.

For completeness, ABP has also considered whether the restrictions in Article 3(6) of the GPDO apply. However, as the proposed development does not involve works to a means of access to a trunk road or classified road, this specific part of Article 3 does not restrict the ability use Part 8, Class B rights for the proposed development. There is no Article 4 Direction in place.

ABP can find no evidence of a relevant Article 4 direction being in place that would remove the ability to rely upon Part 8, Class B permitted development rights.

We trust that the above information is sufficiently clear. If the Council has any comments it wishes to make on ABP’s proposed use of Part 8, Class B rights for the development proposed, we would be grateful if these could be provided to the author of this letter at the email address kevin.fosbury@abports.co.uk within 14 days of the date of this letter (i.e., 05th July 2022).

Yours sincerely,



Kevin Fosbury
Senior Surveyor
Associated British Ports



