

# Appendices

## Appendix 1 – Appropriate Assessment

<p align="center"><b>APPROPRIATE ASSESSMENT OF A PROPOSAL LIKELY TO HAVE A SIGNIFICANT EFFECT ON A EUROPEAN SITE</b></p> <p align="center">CONSERVATION (NATURAL HABITATS &amp; C.) REGULATIONS, 1994</p>				
<b>PART A: The Proposal</b>				
<b>1. Type of permission:</b> Derogation of condition	<b>2. Application reference:</b> H/2007/0543	<b>3. National Grid reference:</b> NZ5226/NZ5227	<b>'P' Number(s):</b>	
<b>4. Map of Application site and Permission reference(s)</b> <p align="center">Map Attached – Yes / No</p> <p><b>A map is needed here to how the exact locations of the “vicinity of Quays 10 and 11” and the Dry Dock.</b></p>	<b>5. Brief description of proposal:</b> <p>The proposal would involve a derogation from Condition 13A of the planning permission obtained by Able UK Ltd in 2007. The condition prevents dredging and piling in the vicinity of Quays 10 and 11 for two hours either side of low tide during the months of December to February.</p> <p>The proposal would specifically involve:</p> <ol style="list-style-type: none"> <li>1. Piling in all areas of the development between the hours of 7am &amp; 7pm.</li> <li>2. Dredging by backhoe and filling hopper in the vicinity of Quays 10 and 11 and Dry Dock.</li> </ol> <p>The above activities are planned to occur singly and in-combination</p> <p>The derogation would permit activities as described below during the low tide period from 05/12/08, until 20/12/08, subject to immediate cessation should the trigger levels described below be breached.</p>			
<b>6. European site name(s):</b>	Teessmouth and Cleveland Coast SPA/Ramsar			

7. **List of interest features:**

SPA Features:

- A. Supports populations of European importance of the following species, listed on Annex 1 of the EU Birds Directive: **Little Tern**, 37 pairs representing at least 1.5% of the breeding population in Great Britain; **Sandwich Tern**, 2,190 individuals representing at least 5.2% of the population in Great Britain on passage migration.
- B. Supports populations of European importance of the following migratory species: **Ringed Plover**, 634 individuals on passage migration, representing at least 1.3% of the Europe/Northern Africa wintering population; **Knot**, 4,190 individuals representing at least 1.2% of the wintering Northeastern Canada/Greenland/Iceland & Northwestern Europe population; **Redshank**, 1,648 individuals representing at least 1.1% of the wintering Eastern Atlantic population.
- C. Over winter, regularly supports 21,406 individual waterfowl including Sanderling, Lapwing, Shelduck, Cormorant, Redshank & Knot.

APPROPRIATE ASSESSMENT OF A PROPOSAL LIKELY TO HAVE A SIGNIFICANT EFFECT ON A EUROPEAN SITE

CONSERVATION (NATURAL HABITATS & C.) (Continued)

PART B: Identification of effects being considered and relevant features affected			
Significant effect being considered (attribute affected)	Affected qualifying feature(s)	Favourable condition target(s) for relevant feature(s) based on conservation objectives set for SPA/Ramsar	Contribution of attribute(s) to site integrity (ecological structure and functioning of site)
Disturbance through noise and visual factors caused by dredging and piling, either singly or in-combination, during the period two hours either side of low tide could prevent bird species from feeding or cause them to make additional movements thus using up energy stores.	Assemblage of over 20,000 waterfowl in the winter Populations of European importance of migratory species.	Subject to natural change, maintain in favourable condition the habitats for the internationally important populations of the regularly occurring migratory bird species, under the Birds Directive, in particular: Rocky shores; intertidal sandflat and mudflat; saltmarsh.	The area around Seaton Channel makes an important contribution to the feeding habitat for regularly occurring migratory bird species and wintering waterfowl.

APPROPRIATE ASSESSMENT OF A PROPOSAL LIKELY TO HAVE A SIGNIFICANT EFFECT ON A EUROPEAN SITE

CONSERVATION (NATURAL HABITATS & C.) (Continued)

PART C: Assessment				
Significant effect being considered (attribute affected)	Adverse Effect of proposal alone on attribute and/or feature and in relation to conservation objective for the feature	Adverse Effect of proposal in combination with other plans or projects, on attribute and /or feature	Can adverse effects be avoided?	Adverse affect on integrity; long term, short term. Yes, no or uncertain?
Disturbance through noise and visual factors caused by dredging and piling, either singly or in-combination, during the period two hours either side of low tide could prevent bird species from feeding or cause them to make additional movements thus using up energy stores. The risk of this occurring is exacerbated by severe winter weather.	<p>The background noise levels on the SPA have been recorded as 47.5db. There is the potential for piling operations to create noise levels of up to 64.1db.</p> <p>There may be some visual disturbance associated with the piling and dredging activities, though the impact is considered to be minor given the distances from the SPA.</p>	<p>The combined activities of dredging and piling could reach a noise level of 67db.</p> <p>There may be some potential for in-combination visual disturbance from dredging and piling though the impact is considered to be minor given the distances from the SPA.</p>	<p>The effects of dredging and piling will be monitored by an independent ornithologist. This will be according to an agreed protocol. (copy of protocol appended to the appropriate assessment).</p> <p>There is a trigger for the cessation of activity should disturbance exceed certain thresholds categorised in the monitoring protocol.</p> <p>The trigger for immediate daily cessation of any activity carried out under derogation would be disturbance such that 20 birds, or 50% of the population of one species within a particular sector, whichever is lower, fly 200m or more in response to the disturbance. (i.e. Category 2 or 3).</p>	No. With the aforementioned safeguards in place any adverse effect will be avoided.

			<p>Should three separate Category 2 or 3 disturbance events attributable to the same activity occur during the derogation that activity will cease for the remainder of the derogation period.</p> <p>If the significant disturbance levels are triggered, this will result in both activities ceasing for the rest of the low tide period. If activities occurring “in combination” result in significant disturbance levels being triggered on three or more occasions this will result in further “in combination” work not being permitted for the remainder of the derogated period.</p> <p>Further measures have been instituted to prevent an adverse effect as follows:</p> <ul style="list-style-type: none"> <li>○ If it can be demonstrated that it is technically possible and practically feasible to monitor levels of disturbance adequately, outside the hours of daylight, then activities as described above can be undertaken.</li> <li>○ Considering the potential for severe weather to additionally affect bird populations, the issuing of a wildfowling ban by JNCC in response to bad weather will trigger withdrawal of the derogation.</li> </ul> <p>Able will comply with Condition 13a for the first two weeks</p>	
--	--	--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

			(until 16 March 2009) of March if they utilise 70% or more of the available derogation period. If less than 70% is utilised, then Able will compensate on a day for a day a <i>quid pro quo basis</i> . This is as compensation for the environmental risk associated with this derogation.	
--	--	--	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

**APPROPRIATE ASSESSMENT OF A PROPOSAL LIKELY TO HAVE A SIGNIFICANT EFFECT ON A EUROPEAN SITE**

CONSERVATION (NATURAL HABITATS & C.) (Continued)

<b>PART D: Council's Conclusion</b>	
<p><b>CAN IT BE ASCERTAINED THAT THE PLAN OR PROJECT WILL NOT ADVERSELY AFFECT THE INTEGRITY OF THE EUROPEAN SITE(S)? YES/NO YES</b> (Please provide explanation for answer given and attach any relevant supporting information)</p> <p>The proposal would involve a derogation of a condition preventing dredging and piling during the period two hours either side of low tide during the months of December to February. The derogation would be in place from 5<sup>th</sup> December 2008 until 20<sup>th</sup> December 2008.</p> <p>There is potential for the dredging and piling to cause disturbance to SPA birds in that they might cause them to stop feeding or make additional movements thus using up energy stores. To mitigate for this, the activities will be monitored by an independent ornithologist throughout the period of low tide when the activities are taking place. Categories of disturbance have been defined and triggers have been put in place such that works will cease should defined thresholds be exceeded. These have been described in part C and the attached monitoring protocol. Further safeguards have been put in place as described in part C. With these safeguards in place it is concluded that any adverse effects will be avoided.</p>	
<b>Name of Assessing Officer:</b> Ian Bond	<b>Name of Supervising Officer:</b> Richard Teece
<b>Job Title:</b> Ecologist	<b>Job Title:</b> Principal Planning Officer
<b>Signed:</b>	<b>Signed:</b>
<b>Date:</b> 4 <sup>th</sup> December 2008	<b>Date:</b> 4 <sup>th</sup> December 2008

APPROPRIATE ASSESSMENT OF A PROPOSAL LIKELY TO HAVE A SIGNIFICANT EFFECT ON A EUROPEAN SITE

CONSERVATION (NATURAL HABITATS & C.) (Continued)

PART E: Consultation with English Nature on Part D	
<b>English Nature comment on conclusion:</b>  Natural England concurs with the conclusions reached above.	
<b>Name of EN Officer:</b>	<b>Job Title:</b>
<b>Signed:</b>  Hugh Tilling Acting Regional Director	<b>Date:</b> 5 December 2008

**Proposal for monitoring of Able UK activities undertaken derogation from Condition 13A.**

When:

1. Monitoring to occur on a daily basis, over the period two hours either side of low tide, for the full period for which the derogation applies. Monitoring to take place for the whole time, up to the full two hours period either side of low tide.

Where:

Monitoring to cover the study area, defined as sectors DT017, DT018 and DT019 (extended to DT013 in the case of shelduck).

What (potential disturbance events):

- Able activities undertaken under the derogation (start & finish times to be noted, or noted as continuing throughout the monitored period)
- Consented activities by Able (start & finish times to be noted, or noted as continuing throughout the monitored period)
- Any other activities that have the potential to impact on the visible WeBS sectors in Seaton Channel eg bait digging

What (bird activity)

1. Number of birds of which species present on each sector or part sector
2. Number and species of bird moving in response to disturbance
  - Distance over which disturbed birds fly
  - Time taken to return to activity indicating normal levels of alertness
  - Time taken to return to original area (or noted that they do not return).
3. Number of birds showing non-flight reactions to disturbance eg ceasing to feed; walking away from disturbance source; alarm calling.
4. Number of birds moving other than in response to disturbance (sub-points as point 2)
5. Points 2-4 to be recorded in relation to sectors or part-sectors
6. Categorisation of disturbance events according to the scale appended below.
7. At night, these activities to be monitored as practical, given the constraints of available equipment. Nonetheless, the ability to record level 2/3 disturbance must be assured as well as the ability to attribute causality to any disturbance.

Report

Report to describe each of the above elements of monitoring.  
Report to include field data as annotated maps.  
Report to be produced to a file size such that it can be e-mailed

Cessation of activity

The trigger for immediate daily cessation of any activity carried out under derogation would be disturbance such that 20 birds, or 50% of the population of one species within a particular sector, whichever is lower, fly 200m or more in response to the disturbance (i.e. Category 2 or 3).

Should three separate Category 2 or 3 disturbance events attributable to the same activity occur during the derogation, that activity will cease for the remainder of the derogation period.

Categorisation of potential and actual disturbance events\*

- 0 No disturbance to birds recorded
- 1 Minor disruption; birds walk or fly but return to the study area within 200m of the previous position
- 2 Local displacement; birds take flight and return to a different position over 200m away but within the study area
- 3. Major displacement; birds take flight and abandon the study area

The study area is defined as sectors DT017, DT018 and DT019 (extended to DT013 in the case of shelduck).

\*This categorisation is based on *Disturbance to waterbirds wintering in the Stour-Orwell Estuaries SPA; A report from Wildside Ecology to the Suffolk Coast & Heaths Unit*. Neil Ravenscroft, Bill Parker, Rick Vonk & Mick Wright. December 2007.