Waveney District Council  
Local Plan Examination

Hearing Session - Tuesday 16th October 2018  
Matter 6 – Strategy for Lowestoft  
Questions 6.1 and 6.2  

Hearing Statement on behalf of:  
Associated British Ports (Port of Lowestoft)

Statement Prepared by  
Adams Hendry Consulting Ltd  

14 September 2018
Introduction

1.1 This statement is submitted on behalf of Associated British Ports (ABP), the owner and operator of the Port of Lowestoft, and the Statutory Harbour Authority for the Statutory Harbour Area. This statement should be read alongside ABP’s Representations.

1.2 In advance of the production of this statement, ABP met with the Council (on 29/8/18) to determine whether it was possible to narrow the scope of the matters raised within its representations. In so doing, both ABP and the Council had regard to the guidance provided by the Inspector in his pre-examination notes whereby it was made clear that the examination would proceed on a proactive, pragmatic and solution-orientated basis.

1.3 As a result of the meeting, the scope of the matters raised by ABP in its representations have narrowed or a way forward on certain matters agreeable to ABP has been suggested by the Council through Proposed Modifications (which are provided at Appendix 1 for completeness). These matters are discussed further in the detailed responses to the Inspectors questions that now follow.

Question 6.1: “Is Policy WLP2.1 (Central and Coastal Lowestoft Regeneration) positively prepared and justified?”

1.4 In its representation on policy WLP2.1 and supporting text, ABP raised three main points, which in summary are:

(i) the plan does not correctly reflect or deal with the significant future development prospects at the Port of Lowestoft during the plan period;

(ii) the plan is overly specific about a particular Lake Lothing Third Crossing (LLTC) scheme (a matter also raised in ABP’s representation on policy WLP1.4 and supporting text), and

(iii) concerns regarding a suggested pedestrian and cycle bridge over the western end of Lake Lothing.

1.5 Points (i) and (iii) are considered further in following sections of this statement. ABP’s representations, however, set out relevant changes to the text and diagrams preceding policy WLP2.1 which are requested in respect of these matters.
1.6 In respect of point (ii), following its meeting with the Council, ABP now understands that the Council do not consider that they can be less specific about a particular LLTC because, although the LLTC is identified as ‘Essential Infrastructure’ and not ‘Critical Infrastructure’ (Table A1.2 of Appendix 1), the emerging Local Plan has proceeded on the basis that the particular LLTC proposal that has now been applied for by Suffolk County Council (SCC) will go ahead.

1.7 ABP also now understands that the Council’s contingency position if the particular LLTC proposal now applied for by SCC does not obtain approval would be an early review of the Local Plan (Table A1.1, page 270 of the Plan).

1.8 In order to be sound the local plan has to be justified. This requires the plan to be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence. The plan also has to be effective, which requires the plan to be deliverable.

1.9 It is ABP’s view that proceeding with a strategy which relies upon a particular infrastructure proposal which has yet to be consented – and to which there will be significant objections to be overcome if consent is to be granted – is not the most appropriate strategy, neither can the Council be certain that the plan is deliverable.

1.10 ABP fully appreciates that the local plan examination is not the place for debating whether the particular LLTC proposal now applied for should be approved. There is a separate process underway for that purpose. However, it should be noted that, regrettablly, ABP currently considers that it has no option but to object to the LLTC DCO scheme as currently being promoted in light of the serious detriment that the scheme, if implemented, will have on the Port of Lowestoft in the context of both its current and future operations.

1.11 It should be noted in this context that ABP does not object to the principle of a third crossing over Lake Lothing. It does, however, object to the location of the crossing currently being promoted which contemplates the bisection of the Port's Inner Harbour.

1.12 Finally in respect of matters relating to the LLTC, ABP’s representations on policies WLP1.4, WLP2.1 and supporting text, highlight the need – for the reasons expressed – for relevant sections of the plan to make it clear that the delivery of infrastructure such as the LLTC and any flood risk management measures should not result in an unacceptable adverse impact on the current and future operations of the Port of Lowestoft.
Question 6.2: “Are the following allocations for new development and policy areas defined on the policies map soundly-based; are the criteria set out in the relevant policies justified and effective; and is there evidence that the development of the allocations is viable and deliverable in the timescales indicated in Appendix 3 of the plan?”

**Policy WLP2.2 – PowerPark**

1.13 In its representation on policy WLP2.2, ABP made it clear that in order to be sound there needed to be a differentiation between that part of the PowerPark within the Port of Lowestoft and that part of the PowerPark outside of the Port.

1.14 ABP understand that the Council are seeking to modify the plan to address this concern by adding a paragraph to the supporting text of policy WLP2.2 making the distinction clear and by also identifying the area of the statutory Port of Lowestoft on the policies map (see Appendix 1). Subject to ensuring that the correct boundary is shown on the policies map, these changes would satisfy the relevant concerns in this regard raised by ABP in its representations.

1.15 In its policy WLP2.2 representation, ABP also highlighted the need for there to be a requirement in the policy to ensure that development outside of the Port area did not place unreasonable restrictions or expectations on the Port and its operations. ABP understands that additional text to the policy along these lines is now being proposed by the Council, and the text that has been indicated to ABP (see Appendix 1) would satisfy its concerns in this respect.

1.16 In addition, however, ABP considers that further minor changes to policy WLP2.2 are also needed to ensure that policy requirements are not imposed on that part of the PowerPark site within the operational Port – which is, as explained in the representation, an area different in a number of respects from ‘normal’ land outside of the Port - which cannot be delivered. For example, it may not be possible or appropriate to improve landscaping, or improve cycle and pedestrian connectivity on operation land within the statutory port. As ABP’s representations made clear, one way in which this matter could be addressed quite simply is by including words such as ‘where possible, appropriate and practicable’ (or something similar) within suitable paragraphs of text within the policy where such policy requirements are set out.

1.17 Finally, ABP also considers that it is necessary for the text supporting the policy to be updated to ensure that it reflects the up-to-date position in respect of the ‘huge potential growth in Waveney associated with the development of offshore wind farms’. The amendments put forward by ABP in this regard in its representations reflect its understanding of the factual position and to further clarify the position in respect of limited opportunities left for further growth within the Outer Harbour Port Area of the PowerPark site.
Policy WLP2.3 – Peto Square

1.18 In its representations, ABP highlighted that the Peto Square allocation within the draft plan included an area of land within the operational Port of Lowestoft which constitutes a critical element of the Port. ABP further made it clear that they had no intention of releasing this area of land for non-port purposes.

1.19 ABP understands that the Council accept the fact that this means that the Peto Square allocation as it appears in the draft plan cannot be delivered and that an amendment is needed to remove that part of the area that constitutes Port land from the Peto Square allocation and to add it into the Inner Harbour Port Area, the subject of policy WLP2.10. ABP welcomes and supports this proposed modification, but would question whether, as a result of this proposed modification, it is also necessary to redraw the Town Centre Boundary in this location.

1.20 In addition, however, it is ABP’s view that within the Peto Square policy it should be made clear that new development on this site should not result in the imposition of restrictions or expectations, direct or indirect, being placed on the ongoing operation of the Port of Lowestoft. The reasons why such a policy requirement is needed are set out in ABP’s representations, but in summary:

(i) the Port is an existing long-standing operational area;
(ii) the Port is a dynamic and unique land use that, because of its nature, needs to operate on a 24hr basis and in a flexible manner;
(iii) the Port it is a facility that has the potential for significant growth over and beyond the plan period, and
(iv) national policy and guidance make clear that existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established. (Whilst the 2012 NPPF makes this point in the context of noise only (paragraph 123) the recent 2018 revised NPPF expands this into a more general principle (see paragraph 182 of the Revised NPPF)).

1.21 ABP understands that the Council do not necessarily disagree that such a policy requirement is needed but consider that this matter has already been sufficiently dealt with by the inclusion within the draft Inner Harbour Policy (policy WLP2.10) of wording (provided in the final paragraph) which seeks to address this matter in respect of new development next to, opposite or in close proximity to the Inner Harbour Port Area.

1.22 ABP welcomes the inclusion of such wording in WLP2.10 (a matter returned to in subsequent paragraphs) but considers that such wording should also be included within the policies for
those sites located next to or close to the Port. This is because there is a danger that those considering developments on such nearby sites (both the Council as decision maker and relevant applicants) will not automatically give consideration to the requirements that are set out in a policy applicable to a neighbouring area (i.e., the Inner Harbour Port Area), and may not actually pick up this policy requirement. In this respect, it is emphasised that paragraph 154 of the NPPF(2012) requires local plans to provide ‘clear policies’ on what will or will not be permitted.

*Policy WLP2.4 – Kirkley Waterfront and Sustainable Urban Neighbourhood*

1.23 The first aspect of ABP’s concerns with this policy and supporting text relate to the references within this part of the plan to a specific LLTC scheme. These matters have already been considered in earlier paragraphs.

1.24 The second aspect of ABP’s concerns with this policy and supporting text relate to a suggested pedestrian and cycle bridge across Lake Lothing at its western end. Similar concerns were raised in ABP’s representations on the text of the draft plan preceding policy WLP2.1.

1.25 ABP understands from its meeting with the Council that the initial work that has been undertaken to date on the delivery of such a bridge has proceeded on the basis that it needs to be a bridge which does not adversely affect navigation within Lake Lothing and that ongoing liaison with ABP and other marine operators is needed to ensure that harbour operations are not compromised by such a bridge.

1.26 The Council further indicated to ABP that wording along these lines had been included within the adopted 2012 AAP (policy TML2(i) and paragraph 4.3.19). ABP understood from discussions that the Council would be willing, by way of a proposed modification, to include such wording in the emerging plan to reflect this position.

1.27 Subject to appropriate wording being included in policy WLP2.4 which makes it clear that any such pedestrian / cycle bridge must not adversely affect navigation or harbour / port operations – along the lines of that currently included in the adopted AAP - then ABP’s concerns in this regard would be satisfied. In ABP’s view it is only a bridge which could meet such requirements which could be delivered.

*Policy WLP2.10 – Inner Harbour Port Area*

1.28 The Council’s proposals to modify the last paragraph of policy WLP2.10 would address the specific concerns raised by ABP in respect of that paragraph of the policy (see Appendix 1).
1.29 However, ABP considers that further changes to the policy and supporting text – as suggested in its representations – are also required in order for the plan in respect of the Inner Harbour Port Area to be sound.

1.30 As worded in the draft plan, ABP considers that policy WLP2.10 and supporting text are unsound because, in summary, they do not take account of and positively plan for the up-to-date level of growth at the Port which is considered likely to occur over the plan period primarily associated with the needs of the offshore energy sector. The evidence and reasoning for the position is summarised in ABP’s representations.

1.31 In respect of evidence, ABP indicated in its representation that it is undertaking research into the latest up to date position with consultancy BVG Associates – the author of the 2009 PowerPark report. It had been hoped to provide a copy of that research with this hearing statement, but for various reasons that work is still being finalised.

1.32 The headline conclusions reached in that work, however, is that (amongst other things) by the end of the local plan period (2036), the Port of Lowestoft could require something in the order of 40 to 50 berths to accommodate Crew Transfer Vessels (CTVs) that are a key part of the operation and maintenance activities required to be carried out on offshore wind farms. In addition, there is also the potential for additional further berth requirements to accommodate larger Service Operation Vessels (SOVs), which are also used during operation and maintenance activities at offshore wind farms.

1.33 There is, however, only limited space now available in the Outer Harbour to provide the additional berths that are likely to be required. This means that if this growth is to be accommodated at Lowestoft, the Inner Harbour will need to play an integral role in meeting the predicted requirements.

1.34 ABP is aware that the Council has recently engaged its own consultants (Nautilus Associates) to undertake research into the likely need for the broad scale and type of demand for land and facilities arising from the energy industry during the plan period in Lowestoft. ABP – although it has not yet seen the report - understands, through discussions held with Nautilus, that its research and likely conclusions support ABP and BVG’s own conclusions as to the growth potential for the Port of Lowestoft in supporting the offshore energy sector.

1.35 In putting forward relevant changes to the policy and supporting text to address these matters, ABP has sought – where possible - to use text and wording that the Council already use in respect of this matter but in the context of the PowerPark allocation policy.

1.36 In addition to these matters, ABP considers that further minor changes to policy WLP2.10 are also needed to ensure that policy requirements are not imposed on development within the
Inner Harbour Port area which either cannot be, or do not need to be, delivered in every circumstance. As ABP’s representation made clear, one way in which this matter could be addressed quite simply is by including words such as ‘where appropriate and practicable’ (or something similar) within the paragraph of text within the policy where such policy requirements are set out.

1.37 Finally, ABP suggests that in addition to the suggested identification on the policies map of the statutory port area, additions are made to the supporting text and the policy to clarify the position for the reader of the plan.
APPENDIX 1 – SCHEDULE OF PROPOSED MODIFICATIONS TO THE LOCAL PLAN
PROVIDED TO ABP BY WAVENEY COUNCIL
## Proposed Main Modifications

<table>
<thead>
<tr>
<th>Paragraph / Policy</th>
<th>Change</th>
<th>Reason</th>
<th>Related Representation</th>
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<tbody>
<tr>
<td><strong>Paragraph 2.19 PowerPark</strong></td>
<td>Add in new paragraph after Paragraph 2.19 “The land allocated as the PowerPark by Policy WLP2.2 includes land both within and outside the statutory Port of Lowestoft as shown on the Policies Map.”</td>
<td>For clarity in response to representations made by Associated British Ports.</td>
<td>Rep ID: 562 Associated British Ports</td>
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<tr>
<td><strong>Policy WLP2.2 PowerPark</strong></td>
<td>Add in extra paragraph to bottom of the policy: “New development next to, opposite or in close proximity to the PowerPark should ensure potential conflicts are mitigated through the layout, use and environmental credentials of new buildings. Developers should liaise with businesses and port operators to ensure that potential conflicting uses are addressed prior to any application for planning permission. New development should not result in unreasonable restrictions being placed on the operations of the port or existing businesses within the PowerPark.”</td>
<td>To ensure consistency with the 2018 NPPF and address concerns raised by Associated British Ports.</td>
<td>Rep ID: 562 Associated British Ports</td>
</tr>
<tr>
<td><strong>Policy WLP2.3 Peto Square and Policy WLP2.10 Inner Harbour Port Area</strong></td>
<td>Amend boundary to exclude statutory port area from WLP2.3 and add it into WLP2.10.</td>
<td>To reflect desire of Associated British Ports to retain this land in port use.</td>
<td>Rep ID: 559 Associated British Ports</td>
</tr>
<tr>
<td><strong>Policy WLP2.10 Inner Harbour Port Area</strong></td>
<td>Amend last paragraph to read: “New development next to, opposite or in close proximity to the Inner Harbour Area should ensure potential conflicts are mitigated through the layout, use and environmental credentials of new buildings. Developers”</td>
<td>To ensure consistency with the 2018 NPPF and address concerns raised by Associated British Ports.</td>
<td>Rep ID: 557 Associated British Ports</td>
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<td>should liaise with businesses and port operators to ensure that potential conflicting uses are addressed prior to any application for planning permission. New development should not result in unreasonable restrictions being placed on the operations of the port or existing businesses within the Inner Harbour Area.”</td>
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<tr>
<td>Central Lowestoft</td>
<td>Show the area of the statutory port of Lowestoft on the Policies Map.</td>
<td>For clarity in response to representations made by Associated British Ports.</td>
<td>Rep ID: 562 Associated British Ports</td>
</tr>
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</table>
WLP2.3 Peto Square, Inner Harbour Port Area and Land within the Statutory Port of Lowestoft

Submitted Local Plan
Proposed modification

Note new polygon for Land within the Statutory Port of Lowestoft