

SJB/40/2279



Representation Form Part B

For office use only		
Consultee Ref:	40	Date Received RECEIVED 24 JAN 2018
Representation Ref:	2279	

**Barrow Borough Council
Regulation 19 Consultation: Submission Draft Local Plan
Consultation on Proposed Major Modifications – December 2017**

Please use a separate Part B form for each modification you wish to comment on. Representations must to be attached to Part A of the representation form. Please note that we cannot accept anonymous responses.

Please print your name on each separate Part B representation.

Name (Print)	Alex Willis
Organisation	BNP Paribas Real Estate
Date	24 January 2018

1. To which of the 27 Proposed Major Modifications does this representation relate?

Please state clearly the reference number of the modification which you are commenting on from the Schedule of Proposed Major Modifications (e.g. MAJ1)	MAJ	1
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2. Do you consider the Major Modification is legally compliant?

Legally compliant?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
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3. Do you consider the Major Modification is sound or sound with minor amendments?

Sound?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Sound with minor amendments?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>

If you have selected 'Yes' to either of the above then please skip question 4 and continue to question 5.

4. If you consider the Major Modification is unsound, on which grounds do you consider the document to be unsound?

Please select as many as you consider apply.

Positively Prepared	<input checked="" type="checkbox"/>
Justified	<input checked="" type="checkbox"/>
Effective	<input checked="" type="checkbox"/>
Consistent with national policy	<input checked="" type="checkbox"/>

5. Please provide details of why you consider the Major Modification is not legally compliant or is unsound. Also if you wish to support the legal compliance or soundness of the modification, please also use this box to set out your comments.

Please be as precise as possible.

Major Modification MAJ1 relates to the amendment of the boundary of the 'Energy Uses Opportunity Area' identified on the Proposals Map to now include the decommissioned South Morecambe Bay Gas Terminal and the demolished Roosecote Power Station which are the subject of draft Policy EC7. The reason stated for this amendment is '*To acknowledge the potential of the sites for future exploration, production, generation and transmission of energy and related activities*'.

ABP objects to this modification on the basis that it is not the only amendment that should have been made to areas identified on the Proposals Map in this part of the Borough. Additional changes to the Proposals Map (and accompanying policies) should also have been made in respect of the adjacent Port of Barrow which, amongst various other things, is a site that also has potential for '*future exploration, production, generation and transmission of energy and related activities*'.

Previous representations submitted to the Pre-Submission Draft Barrow Local Plan in July 2017 set out in detail ABP's view of the changes that are required in respect of the Port of Barrow in order to make the plan sound. As part of explaining the need for the changes required, the strategic importance of the Port of Barrow was evidenced. In doing this, the key role the Port plays in terms of current and future energy generation and transmission was, amongst other aspects, identified. In summary, the Port is significant in this regard because:

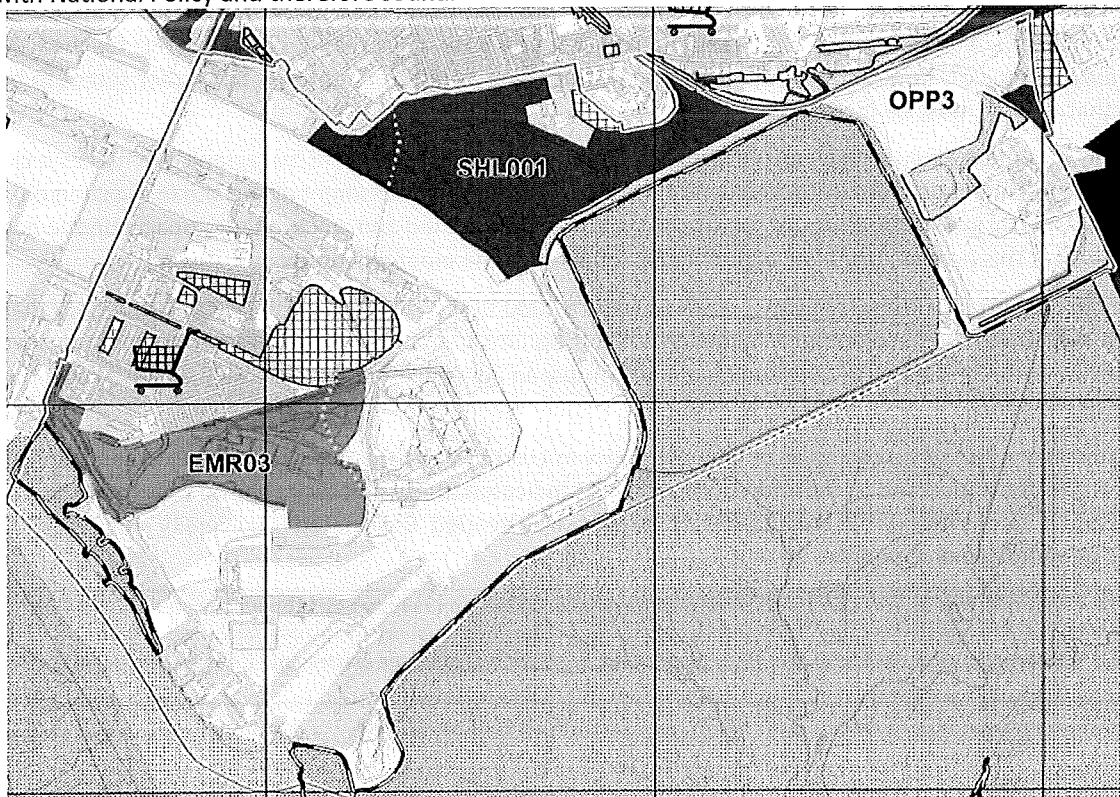
1. it plays a key role in serving the offshore energy industry that has seen this region described as Britain's Energy Coast;
2. it already supports the generation and transmission of energy, including International Nuclear Services materials transport terminal, Centrica's gas condensate storage and shipping facility and Operations and Maintenance bases to serve the offshore wind farms in the Irish Sea; and
3. it is anticipated to play an increasingly important role in other energy generation and transmission projects going forward, including the offshore energy developments in the Irish Sea, the proposed new Moorside Nuclear Power Station and National Grid's North West Coast Connections Project.

ABP's July 2017 representations objected to the Pre-Submission Draft Barrow Local Plan on the basis it was unsound as it did not identify the boundary of the Port of Barrow on the Proposals Map and then include a policy linked to this which supports its continued operation and future growth, including where this relates to energy generation and transmission. As the Submission Draft Barrow Local Plan has, rather disappointingly, not been modified in any way to include these provisions, it remains unsound in that it is not positively prepared, justified, effective or consistent with National Policy. The reasons for this are set out in more detail in ABP's July 2017 representations, but for ease of reference are summarised below:

- i. The Port of Barrow is a strategically important transport hub which also plays a vital role in attracting new investment, creating jobs and supporting energy generation and transmission, with a number of opportunities for future development at the Port currently being considered, which should be supported by the Barrow Local Plan, in line with National Policy.
- ii. The emerging Local Plan, in respect of the Port of Barrow, seeks to rely upon the position set out in the Barrow Port Area Action Plan (AAP). Adopted in 2010, this document is now outdated and inaccurate in many respects and was produced prior to the publication of the National Planning Policy Framework and the National Policy Statement for Ports in 2012.
- iii. The current identification of the Port of Barrow, in particular, in the Barrow Port AAP is inaccurate as it does not include all of ABP's port estate (as edged red on the revised plan now provided at Appendix A), meaning that proposals for future port and port related development on these areas would not be supported by the Barrow Port AAP or the Barrow Local Plan.
- iv. Policy EC1 of the Submission Draft Barrow Local Plan and Policy BP8 (Economic Viability of Port Operations) of the Barrow Port AAP, which would be used to determine applications for planning permission if the Submission Draft

Barrow Local Plan is adopted as currently drafted, are deficient as, amongst other things, they would not support proposals for port and port related uses which are either:

- a) Not linked to the 'Energy Coast' – albeit ABP welcomes the support for development linked to the 'Energy Coast' at the Port of Barrow in Policy EC1; or
 - b) Located on those parts of ABP's port estate which are not allocated in the Barrow Port AAP – a particular issue given this includes the land fronting the Walney Channel which will be vital to the future development of the Port due to its direct deep water access.
- v. The Council's reasoning for not identifying the Port of Barrow correctly on the Proposals Map and providing a suitably worded policy in the plan – which relates to concerns that such changes would significantly delay adoption of the Local Plan – is not correct. The identification of the boundary of the Port of Barrow would merely be reflecting ABP's existing port estate and, provided this is linked to an appropriately worded policy which includes necessary caveats / safeguards to control future development, there appears to be no reason why these changes could not easily be made either prior to or during the Local Plan Examination, and therefore not significantly delay adoption.
- vi. The Council's proposal to deal with any proposed changes to the allocation boundaries and policies in the Barrow Port AAP through a subsequent separate review of this document (rather than in the Local Plan) would result in a significant delay before the incorrect existing allocation and policy deficiencies would be addressed, which is considered unsound given the strategic importance of the Port and National Policy support for its continued operation and future growth.
- vii. It is noted that other areas allocated within the Barrow Port AAP, including the Waterfront Business Park (EMR03), Marina Village (SHL001) and Salthouse Mills (OPP3), have been identified – and in some instances amended - on the Submission Draft Barrow Local Plan Proposals Map (see extract below). As such, there appears to be no reason why the boundary of the Port of Barrow should not also be identified correctly on the Proposals Map to ensure it is in line with National Policy and therefore sound.



Extract from Submission Draft Barrow Local Plan Proposals Map

The revised red line boundary shown on the plan at Appendix A also includes ABP's land to the north east of Cavendish Dock which is included within the proposed Salthouse Mills Opportunity Area (ref. OPP3) identified on the Submission

Draft Barrow Local Plan Proposal Maps. This area is excluded from the Salthouse Mills Housing allocation identified on the current adopted Barrow Port AAP Proposals Map.

Whilst ABP's July 2017 representations supported the inclusion of the land to the north east of Cavendish Dock within the Salthouse Mills Opportunity Area, ABP can no longer support this. The reason for this is it has been identified that future maintenance will be required to the Cavendish Dock embankment in this area and ABP will need the land and access to facilitate this and other port and port related operations going forward. ABP's land to the north east of Cavendish Dock should therefore be excluded from the extent of the Salthouse Mills Opportunity Area (ref. OPP3) identified on the Submission Draft Barrow Local Plan Proposal Maps to ensure this can be found to be deliverable and therefore sound.

In addition, due to the potential interaction between the Port Area, the Energy Uses Opportunity Area and adjacent nature conservation sites, consideration has been given to the wording of Policy N3 (Protecting Biodiversity and Geodiversity) as currently drafted in the Submission Draft Barrow Local Plan. ABP appreciates that this point does not necessarily relate specifically to one of the major modifications now being published, but raise the following points with a view to assisting the Council.

Having examined the wording of emerging policy N3 in the submission draft, it would appear to be unsound because the tests and requirements set out in this emerging policy (under the sub-heading 'Designated Biodiversity and Geodiversity sites') do not appear to accord with relevant national policy and legislation. The emerging policy, therefore, sets out tests and requirements which are arguably more onerous than those in national policy and legislation.

By way of example, in respect of nationally important sites – such as SSSIs - the policy does not appear to accurately reflect the requirements of paragraph 118 of the National Planning Policy Framework (NPPF). Bullet 1 of this NPPF paragraph makes it clear that it is in circumstances where 'significant harm' is being caused in terms of biodiversity matters by development (not simply an adverse effect as indicated in the emerging policy) that consideration should be given to issues such as locating the development on an alternative site. Furthermore, this part of the NPPF goes on to make it clear that the possibility of utilising an alternative site with less harmful impacts is but one of three options available for addressing such 'significant harm' to allow planning permission to be granted. The other options set out are the possibility of adequately mitigating the harm being caused or, as a last resort, compensating for the harm caused. Emerging policy N3 does not appear to be suggesting these as different options, but rather seems to be suggesting that they all must be carried out.

In terms of development likely to have an 'adverse effect' on a SSSI, bullet 2 of NPPF paragraph 118 makes it clear that such development should only be consented where the benefits of the development at the site in question outweigh the impacts on the special interest features of the site being adversely affected and any broader impacts on the national network of SSSIs. This position does not appear to be reflected in the emerging policy.

In respect of internationally important sites – such as Natura 2000 sites – relevant legislation makes it clear that it is only in circumstances where the development, following an 'appropriate assessment', is considered to have 'an adverse effect on the integrity' of the site in question (again not simply an adverse effect as the policy suggests) that questions of no alternative sites arise.

The above points are just some examples of why the policy as currently drafted does not appear to conform with national policy or legislation and is, therefore, unsound. As indicated, these points are raised with the aim of assisting the Council and it is considered that the sub section of the policy headed 'Designated Biodiversity and Geodiversity sites' could easily be redrafted accordingly.

Please note: Your representation should cover succinctly all the information, evidence and supporting information necessary to support and justify the representation and the suggested change. There will not normally be a subsequent opportunity to make further representations. After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.

6. Please set out what change(s) you consider necessary to make the Major Modification legally compliant or sound, having regard to the tests you have identified in question 3 where this relates to soundness.

Please say why you consider the change(s) will make the Major Modification legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

For the reasons set out in more detail in section 5 above and in ABP's July 2017 representations, in order to be sound the Barrow Local Plan must identify the correct boundary of the Port of Barrow on the Proposals Map as 'Port Area' or similar. The Local Plan should also include a policy linked to this identification of the Port of Barrow which supports its current and future use and development for port and port related purposes, including such uses relating to energy and related activities.

In respect of the identification of the correct boundary of the Port of Barrow on the Proposals Map, this is shown edged red on the plan at Appendix A, being a large part of ABP's port estate. This comprises the area currently allocated as 'Land Retained for Port Related Use and Development' in the Barrow Port AAP and the areas of ABP's port estate at Barrow which were incorrectly excluded from this area. However, the proposed boundary excludes ABP's land edged green on the plan at Appendix A which is subject to a long lease to BAE Systems for Devonshire Dock Hall and Shiplift in order to create a logical 'Port Area' boundary.

Linked to this identification of the correct boundary of the Port of Barrow, and for the reasons set out in section 5 above, ABP's land to the north east of Cavendish Dock – which is included within the red line boundary shown on the plan at Appendix A – should be excluded from the proposed Salthouse Mills Opportunity Area (ref. OPP3) identified on the Barrow Local Plan Proposal Maps. In support of this requested change, it should be noted that ABP's land to the north east of Cavendish Dock is excluded from the Salthouse Mills Housing allocation shown on the current adopted Barrow Port AAP Proposals Map.

Turning to the policy linked to the identification of the boundary of the Port of Barrow on the Proposals Map, ABP's suggested wording is again set out below:

"Within the Port Area identified on the Proposals Map, development proposals for port and port related use, including those linked to the 'Energy Coast', will be supported and where appropriate approved by the Council if the submitted scheme accords with other relevant policies in the Local Plan, and can pass the tests of the Habitat Regulations. Areas that benefit from existing or potential access from deep water will be protected for port and port related uses.

Any proposals for new development on land in close proximity to the Port Area will be required to fully assess the potential impact on the Port of the proposed use and where necessary, provide mitigation as part of the new development."

It is also requested that the text under sub-heading 'Designated Biodiversity and Geodiversity sites' of Policy N3 is amended to ensure it conforms to national policy and legislation.

ABP would welcome the opportunity to work with Barrow Borough Council to agree amendments to the Local Plan prior to its submission to the Inspector or alternatively look forward to providing further detail and explanation on the above to the Inspector as part of the examination.

7. If your representation is seeking a change, do you consider it necessary to participate at the oral part of the examination?

Yes	X	No	
I wish to participate		I do not wish to participate	

8. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

This representation relates to matters of importance. It is important that ABP is able to test and explore the unsoundness of the Local Plan in respect of these matters and to discuss the changes sought in more detail with the Council and Inspector.

Please attach any additional documentation you consider necessary to support your representation.

Submitting your representation

In order to be valid you must complete both Part A and Part B of the representation form and return them to the Planning Policy Team via email or post.

- E-mail: developmentplans@barrowbc.gov.uk
- Post to: Planning Policy, Barrow Borough Council, Town Hall, Duke Street, Barrow-in-Furness, Cumbria, LA14 2LD

Please note that representations cannot be kept confidential but all responses will be held by the Council in accordance with the Data Protection Act 1998. All representations received and any information provided will be open to public scrutiny including publication on the Council's website.

Personal information (such as your address or email address) will remain confidential. However, your contact details will be shared with the Programme Officer and Inspector for the purposes of the Public Examination. We will use your contact details to notify you about future stages of the plan process. By submitting this form you are agreeing to the above.

If you have any queries regarding the consultation process please do not hesitate to contact the Planning Policy Team on 01229 876341.

RECEIVED
24 JAN 2018

Appendix 1

Port of Barrow boundary plan



<p>© Crown Copyright and database rights All Rights Reserved ABP Property Department Old Castle, High Street Ipswich, IP4 1BY Tel: 01473 221010</p>	<p> WILSONS OF THE SOUTH WEST 2007/0018 19/05 Part of Barrow</p>	<p> WILSONS OF THE SOUTH WEST 2007/0018 19/05 Part of Barrow</p>
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