

Case Name: *Associated Petroleum Terminals (Immingham) Ltd & Anor, R (On the Application Of) v Harbour Master for the River Humber [2025] EWHC 1992 (Admin) (29 July 2025)*

Full case: [Read here](#)

Commentary:

This case concerns a judicial review of the decision by the Rt Hon Louise Haigh MP, Secretary of State for Transport, to approve a Development Consent Order (“**DCO**”) for the proposed Immingham Eastern Roll-On Roll-Off Terminal (“**IERRT**”) at the Port of Immingham. The Claimants, Associated Petroleum Terminals (Immingham) Ltd and Humber Oil Terminals Trustee Ltd, challenged the lawfulness of the DCO on two grounds: procedural impropriety (specifically relating to the Environmental Impact Assessment (“**EIA**”)) and apparent bias in the decision-making process. The High Court, presided over by Mr Justice Saini, dismissed both grounds and upheld the validity of the DCO.

Background

The IERRT is a major infrastructure project proposed by Associated British Ports (ABP), designed to enhance the UK’s trade capacity, particularly in the post-Brexit context. The project involves the construction of a new Roll-On Roll-Off (Ro-Ro) ferry terminal at the Port of Immingham, comprising three new berths and associated landside works, aimed at facilitating freight movement between the UK and continental Europe. As a Nationally Significant Infrastructure Project, the proposal required a DCO under the Planning Act 2008. The application was reviewed by the Planning Inspectorate and examined by an independent Examination Authority (“**ExA**”), with public consultations and environmental impacts assessed in the Environmental Statement (“**ES**”).

A key issue in the case was the “design vessel” (“**DV**”), a hypothetical ship for which the terminal’s infrastructure was planned. At the time of the application, the DV was still under development, and its specific characteristics, particularly its manoeuvrability, were unknown. Although the ES assessed the safety of certain vessels, it could not evaluate the DV directly. The DCO did not restrict the terminal to vessels already assessed; instead, it allowed future vessels to use the terminal once deemed safe under existing regulatory regimes.

In May 2024, Ms Haigh visited the Port of Immingham at ABP’s invitation while serving as Shadow Secretary of State for Transport. At that time, she held no governmental authority over the DCO process, and the application had not yet been transferred to her department. Following the general election and her appointment as Secretary of State, she chose to personally determine the DCO application rather than delegate the decision to a junior minister. Although her department initially recommended

delegation due to tight deadlines, she retained responsibility and approved the DCO in September 2024, citing the urgency of the project.

Judgment

Ground 1

The Court addressed the environmental challenge by examining the adequacy of the ES and the application of the Gateshead Principle, which permits reliance on external regulatory regimes. He concluded that the ES was legally sufficient, emphasising that its adequacy is a matter for the decision-maker's judgment. The Secretary of State reasonably determined that the absence of specific data on the DV's characteristics did not undermine the ES, as any gaps would be addressed by statutory controls once the vessel came into use.

The Court found that reliance on the River Humber's regulatory framework, including oversight by the Harbour Master and the Statutory Conservancy and Navigation Authority, was appropriate. He affirmed that the Gateshead Principle allows planning authorities to rely on such regimes rather than duplicating controls within the planning process. The Rochdale Envelope principle was also relevant, permitting flexibility in environmental assessments where project details are not fully finalised. The Court held that the ES took a cautious "worst-case" approach and provided sufficient information to identify and mitigate likely significant effects, even though the DV's exact specifications were unknown.

The Claimants argued that deferring consideration of the DV's environmental impacts to the Harbour Master was unlawful, citing *Tew, Hardy and Smith v Secretary of State* [2003] Env. LR 32. However, the Court distinguished this case from *Tew*, noting that in *Tew*, the effects were known and could be modelled, whereas in the present case, the DV's characteristics were not yet available. The Court accepted that it was reasonable to rely on statutory controls to govern the operation of future vessels at the terminal.

Ground 2

The Claimants also argued that Ms Haigh's prior political role, her visit to the Port, and subsequent correspondence with ABP gave rise to an appearance of bias. They contended that these interactions created a real possibility that the decision to approve the DCO was influenced by improper considerations.

The Court examined the facts in light of the test for apparent bias established in *Porter v Magill* [2002] 2 AC 357, which asks whether a fair-minded and informed observer would conclude that there was a real possibility of bias. The Court concluded that the answer

was no, noting that Ms Haigh's visit occurred before she assumed office and before the DCO application was transferred to her. She had taken steps to avoid any material involvement with ABP during the decision-making period, including declining an invitation to an ABP dinner and ensuring that her correspondence did not influence her decision.

The Court emphasised that the Examination Authority had conducted a thorough and independent review, and that Ms Haigh's final decision aligned with its recommendations. There was no evidence to suggest that she had a closed mind or that her decision was improperly influenced. The claim of apparent bias was, therefore, rejected.

Conclusion

The High Court dismissed both grounds of challenge, confirming the lawfulness of the DCO for the IERRT project. The Secretary of State's decision to approve the DCO was consistent with the legal framework under the Planning Act 2008, and there were no procedural errors or signs of bias in the decision-making process. The Claimants' objections were rejected, and ABP was granted permission to proceed with the construction of the IERRT.

This judgment reaffirms the application of the Gateshead Principle in EIA contexts, clarifying that planning decision-makers can rely on established regulatory regimes to address potential risks. It also highlights the importance of the decision-maker's discretion in assessing the adequacy of environmental assessments and the handling of complex safety considerations for future vessels.

Case summary prepared by Tanika Zeidler