

NORTH LINCOLNSHIRE COUNCIL

**NEIGHBOURHOOD, ENVIRONMENT AND COMMUNITIES
CABINET MEMBER**

PORT OF IMMINGHAM POLLUTION CONTROL

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To inform the Cabinet Member of the on-going situation relating to pollution and environmental regulation issues at the Port of Immingham.

2. BACKGROUND INFORMATION

- 2.1 Under the Pollution Prevention and Control Act 1999 and the Environmental Permitting (England and Wales) Regulations 2010, North Lincolnshire Council (NLC) is responsible for regulating a number of industrial sites within North Lincolnshire that have the potential to cause pollution of the environment. Two of these regulated sites are coal handling operations on the Immingham Port Estate. These are operated by Tata Steel (UK) Limited and Hargreaves (UK) Services Limited. The location of these two sites is shown on Appendix 1.
- 2.2 Four organisations - NLC, North East Lincolnshire Council (NELC), Hull and Goole Port Health Authority (HGPHA) and the Environment Agency (EA) regulate sites on the Immingham Port Estate under this legislation. The four regulators of the Port Estate have formed an enforcement concordat aimed at ensuring consistency, including peer review of operating permits and establishing evidence-gathering procedures. The four regulators also attend the Environmental Forum convened quarterly by Associated British Ports on the Estate.
- 2.3 For a number of years the residents of Immingham have complained of coal dust being deposited on their homes and possibly affecting their health. Within the last year the issue has intensified and there have been regular articles in the local newspaper, the Grimsby Telegraph. It has featured on local television news reports and there is a Facebook group dedicated to this issue. Samples have been taken from Immingham properties by NELC and analysis has shown that far less than 50% of the deposits are from coal-based products. It may be the case that dust from a variety of sources is being wrongly classified as coal dust because of the colour of the deposits. NLC receives less than one complaint a year from North Lincolnshire residents complaining of coal dust from the Immingham Port Estate.

- 2.4 In October 2006 NELC declared an Air Quality Management Area (AQMA) for particulate matter less than 10 microns in diameter (PM₁₀) in Immingham. The AQMA covers a residential area on Kings Road and Pelham Road; the location of this is shown on Appendix 1. Dust from the coal storage and handling operations on the nearby Port Estate is a likely contributor to the level of particulate matter recorded at this location. The contribution of coal storage on the Port Estate to the particulate matter levels in this area has been predicted at 34% with road traffic predicted to be responsible for over 50%. In recent years levels of particulate matter measured at this location have been below air quality objectives and, should this continue, NELC may consider revoking the AQMA.
- 2.5 On 21 July 2010 at the meeting of the NELC Regeneration, Housing and Environment Committee it was agreed that a Select Committee, comprising of members of both NELC and Immingham Town Council, should be formed to review the matter of dust at Immingham. The Coal Dust Select Committee has heard evidence from all the Regulators, including NLC's Environmental Protection Team, Health Professionals, local residents and operators on the Port Estate. On 24 November 2010 the Select Committee agreed 4 recommendations and these are attached to this report as Appendix 2. The two main points that are of significance are that DEFRA is to be lobbied to determine a single regulator (presumably NELC) for the Port Estate and regulators should be contacted with a view to making a financial contribution.
- 2.6 The Coal Dust Select Committee has recommended that DEFRA is to be lobbied to provide a single regulator for the Port Estate. It appears that DEFRA only have authority to direct the Environment Agency, and not a local authority, to perform this role. If it was deemed more appropriate for NELC to be the single regulator, then provision for this does exist under Section 101 of the Local Government Act 1972 (as amended) whereby functions can be discharged to another Local Authority. On 12 May 2010 at the Full Council Meeting (agenda item 1874) it was decided that NLC would transfer regulation of a similar site to NELC on the Port Estate as this site straddled the authority boundary and the majority of this site was within NELC's area.
- 2.7 The Tata Steel site is regulated by North Lincolnshire Council for the storage and handling of coal. It is also regulated by the EA for the storage and handling of iron ore. Both of these materials are used in the steelmaking process at the Scunthorpe site. The EA is in discussions with NELC to transfer its obligations in respect of the iron ore operation to NELC and Tata would welcome a single regulator for this site.

3. OPTIONS FOR CONSIDERATION

- 3.1 Option 1 is for NLC's Environmental Protection Team to continue working closely with the other 3 regulators and explore the practicalities and clarify the legal process for creating a single regulator for the Immingham Port Estate.

3.2 Option 2 is for the Council to cooperate with the other 3 regulators.

3.3 Option 3 is to do nothing and await a formal approach from NELC.

4. ANALYSIS OF OPTIONS

4.1 Option 1. The dust deposits experienced by Immingham residents are seemingly nuisance dust issues from a variety of sources but there is a feeling within Immingham that there should be one organisation controlling and regulating the coal handlers on the Port Estate and this organisation should be the one that is politically accountable to them - NELC. As the residents affected live in North East Lincolnshire and the majority of the Port Estate is also within North East Lincolnshire it is expected that, should there be a single regulator, this would be NELC. The onus for completing any transfer of responsibilities falls on NELC to start the process and make a formal approach to NLC.

4.2 Option 2. NLC will continue to regulate these sites as before and be able to collect the annual fees for doing this. The Tata Steel iron ore operation may transfer from the EA to NELC for regulation but NLC would still regulate the coal operation on this site, leaving the site with 2 regulators, a situation not welcomed by Tata. Furthermore residents of Immingham would also continue to report pollution incidents to 4 different regulators. To actively resist the single regulator proposal at this stage may be against the principles of Better Regulation and Localism being promoted by the current Government.

4.3 Option 3. NLC will continue working with the other regulators to ensure that a consistent approach is taken and therefore a high standard of protection is afforded to the environment and local residents.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 Presently NLC receives £1111 a year in subsistence fees from each of the Hargreaves and the Tata Steel sites; a total of £2222 a year. After 31 December 2011 the Hargreaves site will be taken over by Associated British Ports who intend to use the site for the handling of biomass, an operation that does not require regulating by the Council.

5.2 Should the regulation of these sites pass to NELC, or any another organisation, there will be a loss of £1111 per site every year. This fee will then be paid by the operator to the appropriate regulator. The charging regime is based on the 'polluter pays principle', and although there will be a loss of revenue, the Council will not be required to provide the resource to regulate this site.

5.3 Should the regulation of the Tata Steel site pass to NELC, or any another organisation, then this would set a precedent on the Port Estate and any new coal handling site on the Port Estate within NLC's area would most likely be regulated by NELC, leading to a further loss of income. It should be noted however that there is presently little unused or available land on the Estate within NLC's area.

5.4 One of the Coal Dust Select Committee recommendations (3 viii) is that a request be made to the other regulators to provide a financial contribution to the single regulator of the Port Estate. At this stage the amount is unknown, however this contribution is likely to be in addition to the £1111 for each site that NLC would forfeit by allowing the regulation to be undertaken by NELC or another organisation.

6. **OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)**

6.1 The Environmental Permitting regime is designed to reduce pollution and, in particular, to help improve air quality. Should NELC submit a request to take over the regulation of the Tata Steel site, then the Council may wish to seek an assurance that the NELC will apply appropriate controls to provide protection of the environment.

6.2 NLC has a statutory duty to regulate coal handling operations within its area, and the Council would have to use Section 101 of the Local Government Act 1972 (as amended) to delegate the discharge of functions to another Local Authority if it wished to relinquish its duty to regulate these operations on the Port Estate.

7. **OUTCOMES OF CONSULTATION**

7.1 Finance, Human Resources and Legal & Democratic have been consulted on this report. No comments have been received.

8. **RECOMMENDATIONS**

8.1 The Cabinet Member supports Option 3.

8.2 The recommendations of the Coal Dust Select Committee report be noted.

8.3 NLC's Environmental Protection Team keep the Cabinet Member updated with any developments in relation to this matter.

SERVICE DIRECTOR NEIGHBOURHOOD AND ENVIRONMENT

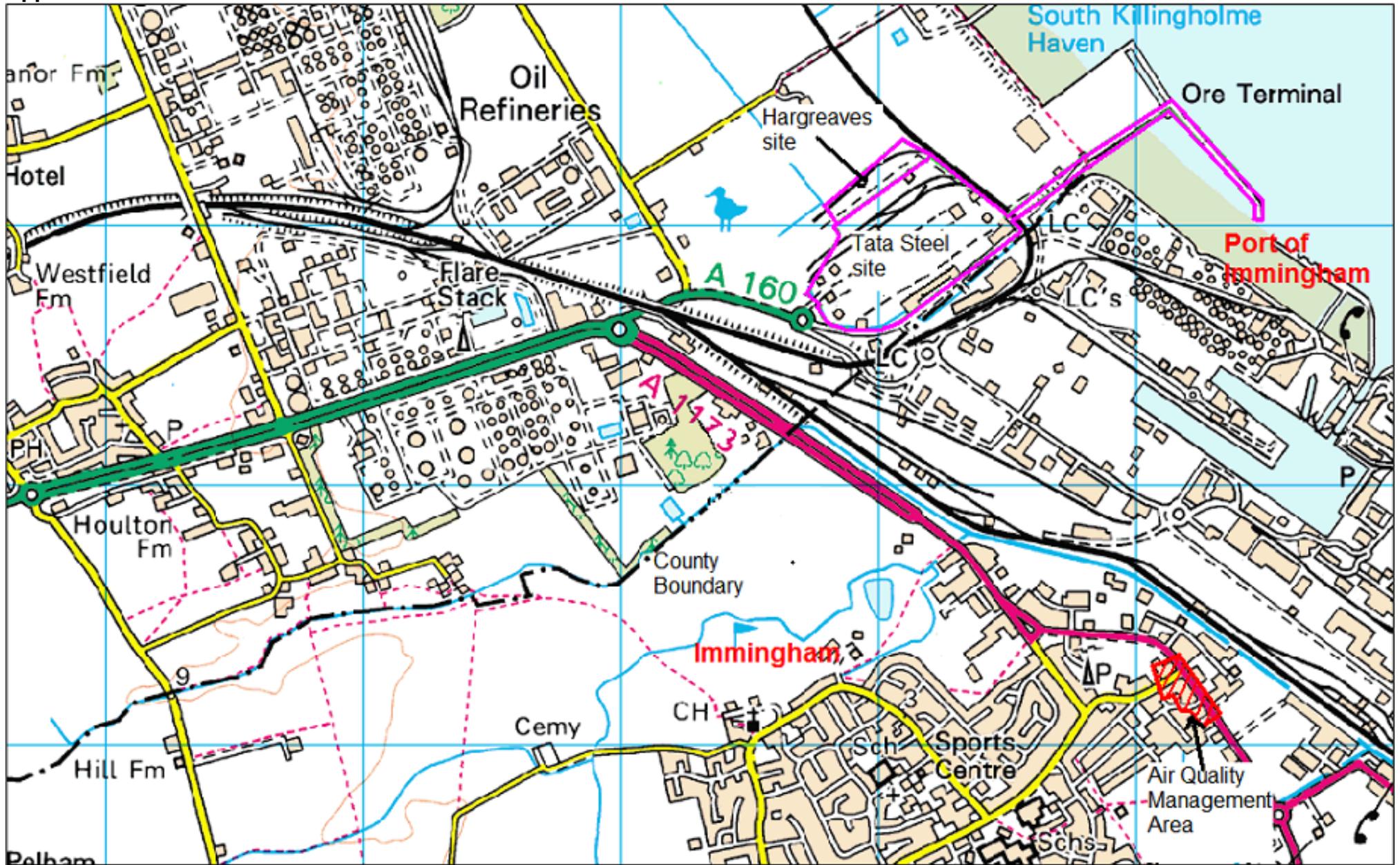
The Angel
Market Place
BRIGG
DN20 8LD

Author: Robert Vickers
Date: 14 March 2011

Background Papers used in the preparation of this report

- NELC Regeneration, Housing and Environment Scrutiny Panel Report on the Findings of the Coal Dust Select Committee October/November 2010
- NELC Local Air Quality Management Progress Report June 2010

Appendix 1



Appendix 2 – Coal Dust Select Committee Recommendations

1) A working group/round table be established including Immingham Ward Councillors, the Chair of the Immingham Town Council Environment Committee, representatives from Associated British Ports (ABP) and other agencies to regularly discuss concerns and ideas, including for example:-

- complaints from residents
- good practice
- fixed CCTV monitoring
- appropriate levies and community services from ABP and the coal handling companies,
- the storage of coal stockpiles,
- the use of windbreaks/bunds,
- the use of commercial products etc

The Portfolio Holder for the Environment and Green Agenda to be the Chair in the first instance and report back to the Regeneration, Housing and Environment Scrutiny Panel. Relevant officers be invited to attend the Working Group/Round Table as the need arises.

2) That the Chief Executive, the Portfolio Holder for Environment and the Green Agenda and the Chairman of the Coal Dust Select Committee:-

i) Write to DEFRA to lobby for one single regulatory authority to oversee all A2 and part B processes on Immingham docks and to request the development of a local agreement with the Environment Agency for A1 processes **Note – A1 processes are regulated by the Environment Agency**

ii) Write to ABP and the coal handling companies to encourage them to also write to DEFRA to lobby for one single regulatory authority on Immingham docks for all A2 and part B processes. **Note – A2 and Part B processes are regulated by local authorities and port health authorities**

3) That the Executive Director for Community Services:-

i) Considers the use of Global System for Mobile Communications (GSM) or other technology so that the air quality monitoring equipment alerts staff and other interested parties immediately when air quality falls below a satisfactory level.

ii) Consults with the Health Protection Agency/Care Trust Plus (CTP) as to the merit of introducing warnings when there is likely to be poor air quality for those individuals with known health problems.

iii) Reviews all permit conditions, including those of other regulators, relating to the management of handling dusty materials and audits adherence to these permit conditions.

iv) Writes to ABP to ensure that complaints from members of the public and examples of good practice continue as standing agenda items at the ABP Environment Panel and that any actions are brought forward to the working group/round table

vi) Writes to Coal Products Limited requesting that they review as a matter of urgency the Control Policy Document no 36 relating to Dust Management procedures to take into account preventative actions.

vi) Reviews the existing procedures following an alleged breach of permit condition to ensure that:-

- best practice is adhered to
- quality evidence can be collected and analysed
- residents of Immingham and/or the complainants are

kept fully informed.

vii) Requests a financial contribution from Associated British Ports and the coal handlers to enable the Air Quality research in Immingham to be continued and taken forward to the next stage.

viii) If the Council were to be successful in obtaining agreement for one single regulator for Immingham Docks, to investigate the potential of having 24/7 cover of Immingham Docks for 52 weeks of the year. This to include the potential of utilizing the Community Pride team and to investigate whether an appropriate contribution could be made by Associated British Ports and other regulators in the light of savings that they would make if there were to be one regulator.

4) That the Executive Director for Regeneration:

i) Writes to the Secretary of State for Transport requesting that the provision of the bypass route for the Town of Immingham be re-instated as a highway scheme for 20xx and if necessary request that Cabinet look into the possibility of additional funding to enable the scheme to be re-instated.

iii) Writes to the MP for Cleethorpes to encourage him to support the Immingham by-pass being reinstated as a highway scheme for 20xx.

ii) Writes to the Highways Agency seeking the provision of signage on the A180 for HGV's to avoid the town of Immingham