

APPLICATION BY TATA STEEL UK LTD FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE INTERNAL POWER GENERATION ENHANCEMENT FOR PORT TALBOT STEELWORKS (THE APPLICATION)

Hearing agendas: Compulsory Acquisition Hearing and Issue Specific Hearing on environmental matters (including Environmental Impact Assessment (EIA) and Habitats Regulations Assessment (HRA)).

Planning Act 2008 (as amended)

Infrastructure Planning (Examination Procedure) Rules 2010

This document sets out the agenda for the Compulsory Acquisition Hearing and the Issue specific hearing on environmental matters (including Environmental Impact Assessment (EIA) and Habitats Regulations Assessment (HRA)).

Venue: Blanco's Hotel, Green Park, Port Talbot SA12 6NT

Date: Wednesday 25 February 2015 and Thursday 26 February 2015 (if required)

Time: Doors open 9.30am, the Compulsory Acquisition hearing will begin at 10am.

The Issue specific hearing on environmental matters (including Environmental Impact Assessment (EIA) and Habitats Regulations Assessment (HRA)) will begin once the Compulsory Acquisition hearing has ended (after a short break).

Thursday 26 February 2015 has been reserved to continue the Issue specific hearing on environmental matters, if required.

Participation in the hearing

Compulsory Acquisition Hearing

Compulsory Acquisition hearings are held if one affected person (AP) requests this. However, in this instance the Examining Authority (ExA) has decided to hold a compulsory acquisition hearing and the ExA has included this within the examination timetable.

The Compulsory Acquisition hearing is being held to ensure adequate examination of the provisions set out within the draft Development Consent Order, which seeks to authorise the compulsory acquisition of land and to assess whether the conditions relating to the land being required for the development, or required to facilitate or be incidental to that development, are met and whether there is a compelling case in the public interest for the land to be acquired compulsorily.

This agenda is for guidance only. It is not designed to be exclusive or exhaustive. The ExA may add other matters for consideration or alter the order in which matters are considered. If this occurs, the ExA will seek to allocate sufficient time to any additional matters to allow proper consideration of each.

Should the consideration of the issues take less time than anticipated, the ExA may conclude the hearing as soon as all relevant contributions have been made, and all questions have been asked and responded to.

If there are additional matters to be dealt with, or any submissions that require further consideration, there may be a need to adjourn the hearing and continue at a subsequent sitting.

The ExA recognises that other hearings may contribute information and evidence which will be used in support of a recommendation in respect of Compulsory Acquisition.

**APPLICATION BY TATA STEEL UK LIMITED FOR AN ORDER GRANTING
DEVELOPMENT CONSENT FOR THE INTERNAL POWER GENERATION
ENHANCEMENT FOR PORT TALBOT STEELWORKS**

**COMPULSORY ACQUISITION HEARING AGENDA – WEDNESDAY 25 FEBRUARY
2015**

1. INTRODUCTORY REMARKS

**2. PURPOSE OF THE HEARING AND INTRODUCTION OF THE
PARTICIPATING PARTIES**

**3. REQUESTS TO QUESTION A PERSON MAKING ORAL REPRESENTATIONS
DIRECTLY UNDER S.94 OF THE 2008 PLANNING ACT.**

4. REPORT FROM THE APPLICANT ON THE POSITION IN RESPECT OF:

- Current status of negotiations with affected persons

**5. ORAL REPRESENTATIONS FROM AFFECTED PERSONS PRESENT AND/OR
FORMALLY REPRESENTED.**

**6. SEEKING TO ESTABLISH THAT THE LAND IS REQUIRED FOR THE
DEVELOPMENT TO WHICH THE DEVELOPMENT CONSENT RELATES OR THAT IT
IS REQUIRED TO FACILITATE, OR IS INTEGRAL TO, THAT DEVELOPMENT AND
IS FOR A LEGITIMATE PURPOSE:**

**7. SEEKING TO ESTABLISH A COMPELLING CASE IN THE PUBLIC INTEREST
FOR THE LAND TO BE ACQUIRED COMPULSORILY; INCLUDING:**

- Where Compulsory Acquisition has been applied for, for example, on land to provide flexibility in delivery.
- Can the applicant provide a reprise of their response to ExA Question 2.02 relating to Order Limits for plots 01/07 & 02/04 respectively.

**8. SEEKING TO ESTABLISH THAT ALL REASONABLE ALTERNATIVES TO
COMPULSORY ACQUISITION HAVE BEEN EXPLORED; INCLUDING:**

- Acquisition by agreement; and/or
- The use of alternative methods to achieve the required control over land.

**9. SEEKING TO ESTABLISH THAT THE PROPOSED INTERFERENCE WITH
THE RIGHTS OF THOSE WITH AN INTEREST IN THE LAND IS NECESSARY AND
PROPORTIONATE, INCLUDING WITH REFERENCE TO PROTOCOL 1 ARTICLE.1
OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS; INCLUDING:**

- Why it is necessary, proportionate and justifiable for the Application to contain compulsory acquisition powers?
- Can the applicant comment on whether there is any potential for the sterilisation of coal reserves as a consequence of the acquisition of the powers sought.

10. SEEKING TO ESTABLISH THAT THERE IS A REASONABLE PROSPECT OF THE REQUISITE FUNDS FOR ACQUISITION BECOMING AVAILABLE; INCLUDING:

- Costs of acquisition and compensation. Can the applicant reprise their response to ExA Question 7.01.
- What security is being proposed to ensure that the costs of acquisition of land and rights can be met in the event that the DCO application is approved e.g. parent company guarantee?

11. ANY OTHER RELEVANT BUSINESS

12. CLOSING REMARKS

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ISSUE SPECIFIC HEARING ON ENVIRONMENTAL MATTERS (INCLUDING ENVIRONMENTAL IMPACT ASSESSMENT (EIA) AND HABITATS REGULATIONS ASSESSMENT (HRA))

All interested parties (IPs) are invited to attend the hearing.

Each IP is entitled to make oral representations at the hearing (subject to the Examining Authority's (ExA's) power to control the hearing). Oral representations should be based on the relevant or written representations made by the person by whom (or on whose behalf) the oral representations are made.

Oral submissions should be based on representations previously made in writing by the particular participant or arising directly from the matters raised by each IP. However, representations made at the hearing should not simply repeat matters previously covered in a written submission. Rather, they should draw attention to those submissions in summary form and provide further detail, explanation and evidential corroboration to help inform the ExA.

The ExA may ask questions about their representation or ask the applicant or other party to comment or respond.

The ExA may decide to allow oral cross-questioning of one party by another, where there is clear disagreement between the parties in question, to ensure adequate testing of the representations or to ensure that each party has a fair chance to put their case. Those attending the hearing are asked to note that an early item on the agenda is to deal with any requests to question a person making oral representations directly under section 94(4)(a) of the Planning Act 2008.

Breaks will be taken during the hearing as directed by the Chair.

All parties should note that the agenda given below is to provide a framework for this hearing and offer discussion points; it does not constrain the ExA to specific topics. The ExA may wish to raise other matters arising from submissions and pursue lines of inquiry in the course of the discussions which are not included in this agenda.

The hearing will have regard to matters already set out in submissions to the examination, including:

- Relevant representations
- Written representations
- Responses to first written questions
- Statements of Common Ground; and
- Local Impact Report

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ISSUE SPECIFIC HEARING ON ENVIRONMENTAL MATTERS (INCLUDING ENVIRONMENTAL IMPACT ASSESSMENT (EIA) AND HABITATS REGULATIONS ASSESSMENT (HRA)) – WEDNESDAY 25 FEBRUARY 2015 AND THURSDAY 26 FEBRUARY 2015 (IF REQUIRED)

1. INTRODUCTORY REMARKS

2. INTRODUCTION OF PARTICIPATING PARTIES

3. REQUESTS TO QUESTION A PERSON MAKING ORAL REPRESENTATIONS DIRECTLY UNDER S94 OF THE 2008 ACT

4. DETAILED ISSUES / QUESTIONS

4.1 Air Quality

4.1.1 Plumes

Can the applicant reprise their response to ExA 1Q3.02 and confirm what they consider would constitute 'abnormal climatic conditions' and/or 'exceptionally adverse weather conditions'

4.1.2 'Realistic' Emissions

Can the applicant reprise the response to ExA 1Q5.10 and provide specific evidence that supports the statement that these are the levels of emissions that are likely to be released by the new boilers.

4.1.3 Operational Air Quality Effects

Can NRW reprise their response to ExA 1Q5.14 and confirm whether they have any remaining issues regarding the applicant's assignment of significance for ecological receptors.

4.1.3 In-combination effects on European Sites

The applicant's position on effects on European sites is that the emissions from Option 2, Phase 1 of the project, combined with other known power stations in the vicinity, would lead to nitrogen deposition of 1.14% of the critical load for Crymlyn Bog Special Area of Conservation.

Following comments from NRW, the applicant has accepted that a likely significant effect cannot be excluded and provided information to support an appropriate assessment (December 2014 document refs: 5.03 & 5.05)

The applicant's conclusion is that there will be no adverse effect on the integrity of Crymlyn Bog SAC and Ramsar site because of the more stringent NOx limits set by the Industrial Emissions Directive, the UK's on-going commitment to reduce NOx emissions and the temporary nature (circa 10 years) of the effects from Option 2, Phase 1.

It would appear that these are not measures that could be enforced. Could the applicant explain the basis for their confidence that adverse effects on the integrity of Crymlyn Bog will be avoided?

Can NRW reprise their reasoning for agreeing that they are satisfied that adverse effects on the integrity of the SAC will be avoided and would be avoided and confirm the reference documents that have been applied to reach this conclusion.

The applicant has concluded that effects from acid deposition on Crymlyn Bog SAC/Ramsar site are not likely to be significant. Air quality effects on Kenfig and Cefn Cribwr grassland SACs are also assessed as unlikely to be significant because the process contributions are less than 1% of the relevant critical loads, even when the process contributions from other projects are considered.

Could NRW explain the basis for the conclusion that process contributions of less than 1% of critical load are insignificant?

4.1.4 Atmospheric pollutants predicted fall out

Can CCS confirm whether the contour plots of potential pollutant concentrations included as figures 5.19 – 5.36 of the Environmental Statement are sufficient to satisfy their suggestion (CCS LIR para 8.5) that a map of predicted fall out with respect to effects of atmospheric pollutants on Crymlyn Bog SAC should be included in the HRA.

4.2 Surface Water Environment

4.2.1 Flooding with respect to Climate Change

Can the Applicant confirm whether the two plans at Appendix A of his response to ExA 1Q 1.06 meet the following (recommended) criteria for determining climate change potential flooding effects:

- 1 in 1000 annual probability fluvial flood flow + climate change against Mean High Water Spring tide level + climate change; and

- Qmed fluvial flood flow + climate change against 1 in 1000 annual probability tide level + climate change.

4.2.2 Surface water in relation to the Peripheral Distributor Road (Harbour Way)

The applicant has referred to the FCA produced for the PDR Harbour Way in the response to ExA 1Q3.29 and has attached extracts from the document at Appendix I including a reference to Section 14.5.4 of the Halcrow PDR FCA Mitigation – Reducing Increased Flood Risk. Can the applicant confirm the scope of this FCA – did it include the internal power enhancement project? If not, why is the applicant confident that no increased risk of flooding would occur if the DCO was granted?

4.2.3 On-site treatment

Can the applicant confirm the adequacy of the on-site treatment facilities to accommodate all flows generated during all phases of all options – particularly Option 2 Phase 1 when existing facilities would be running alongside the new boiler and the three turbo alternators would not have been decommissioned.

4.2.4 Water abstraction

Can the applicant provide an update on the status of the agreements to be drawn up with ABP regarding the water abstraction hierarchy and potential impacts on the operations at Port Talbot Docks particularly during times of low flow.

4.2.5 Discharges during construction

The applicant states that the discharges during commissioning are unknown but that they will be less than 'when at full operation' (para 5.111 of response to ExA 1Q5.37).

Can the applicant clarify the meaning of 'full operation' in relation to construction options and phases?

Can the applicant confirm the basis of their confidence that discharges will be less than the full operation discharges as they are unable to identify what the commissioning discharges will be.

4.2.6 Heated Water Discharges

Can applicant comment on CCS question (CCS LIR para 8.6) regarding any negative impacts on its shore from the discharge of heated water into the sea.

4.3 Ground Contamination

4.3.1 Site Investigation

Can the applicant provide an update on the progress of the site investigation and confirm the scope and status of the various reports and findings that have or are being generated and indicate which will be presented as evidence for the examination together with programmed submission dates.

4.3.2 Disposal of Waste Material

The applicant has indicated that the current site investigation works will confirm the method of waste disposal and whether waste will need to be disposed of at facilities other than the onsite management and treatment facility (para 5.151 of their response to ExA 1Q5.57).

Can the applicant indicate whether the results of the site investigation indicate the need for any off site waste disposal and if so whether it will impact on the traffic assessment as the assessment does not appear to include any off-site trips to dispose of waste material.

4.4 Noise

4.4.1 Standard for Building Design

Can the applicant confirm whether the MES 002 standard is a mandatory or an advisory standard.

If it is advisory, how would compliance with the standard be ensured?

Can NRW and NPTCBC confirm there are satisfied with the applicant's response to ExA 1Q3.13 with respect to noise standards to be applied to building design?

4.5 Ecological issues

Can NPTCBC confirm that the translocation of species and the creation of sustainable habitats has been completed in accordance with their requirements (NPTCBC WR para 9).

5. ANY OTHER MATTERS

6. CLOSING REMARKS