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The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

The Port Talbot Steelworks (Power Generation Enhancement) Order

SOCGNRW1.01 Statement of Common Ground between Natural Resources Wales and Tata Steel UK Ltd

PINS Reference EN010062

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The Proposed Port Talbot Steelworks (Power Generation Enhancement) Order

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STATEMENT OF COMMON GROUND

between

Tata Steel UK Limited

and

the Natural Resources Body for Wales

1. INTRODUCTION

Introduction

- 1.1 This document comprises the Statement of Common Ground ("SoCG") between the Natural Resources Body for Wales ("NRW") and Tata Steel UK Limited ("the Applicant") relating to the application ("the Application") for a Development Consent Order submitted to the Planning Inspectorate ("PINS") for development of the Port Talbot Steelworks Power Generation Enhancement Project.
- 1.2 For the purpose of this SOCG, the Applicant and NRW are jointly referred to as "the Parties".
- 1.3 The Applicant has applied to the Secretary of State under the Planning Act 2008 for a Development Consent Order ("DCO") to construct, operate and maintain:
 - 1.3.1 a process gas-fired generating station (the Power Generation Plant) on land at the Port Talbot Steelworks, South Wales;
 - 1.3.2 a 66kV electricity substation within the steelworks site;
 - 1.3.3 a 66kV electrical connection approximately 2.8km in length between the new substation and the existing onsite substations to connect the Power Generation Plant to the local electricity distribution network; and
 - 1.3.4 extensions to the existing onsite pipe work to connect the Power Generation Plant to water, gas and compressed air supplies.
- 1.4 The above elements are collectively referred to as "the Project". The Project is located is entirely within the administrative boundary of Neath Port Talbot County Borough Council ("NPTCBC"). The Application was submitted on 7th August 2014 and accepted by the Secretary of State on 2nd September 2014.
- 1.5 Preparation of this SOCG has been informed by discussions between the Parties. The SOCG relates to the following topics:
 - 1.5.1 the Environmental Permit (EP);
 - 1.5.2 the Environmental Statement (ES); and
 - 1.5.3 the conclusions of Habitat Regulations Assessment Screening Report (HRA) and a Report to Inform an Appropriate Assessment.

1.6 This SOCG is intended to give a clear position of the state and extent of agreement between the Parties as at the date on which this SOCG is signed and submitted to the Examining Authority.

2. ENVIRONMENTAL PERMIT (EP)

Background

2.1 The Parties **AGREE** that an EP is required for the Project under the Environmental Permitting (England and Wales) Regulations 2010 prior to the operation of the Project. The Parties **AGREE** that NRW is the relevant competent authority in respect of an EP application.

2.2 National Policy Statement EN1 (paragraph 4.10.6) states that, wherever possible, applicants are encouraged to submit applications for EPs at the same time as applying for development consent. However, EN-1 recognises this is not always possible and that a DCO application should not be refused on this basis unless the Secretary of State has "good reason to believe that any relevant necessary operational pollution control permits or licences or other consents will not subsequently be granted" (EN-1 paragraph 4.10.8).

2.3 The Applicant has not yet applied for a permit but intends to do so in the next few months. A pre-application meeting was held on 9 January 2015 and dialogue between the Parties is ongoing.

Permitting Approach

2.4 Both Parties **AGREE** that on the information currently available, it appears that it would be possible in principle to grant consent for the Project. However NRW is unable to provide any binding commitments at this stage as to the subsequent determination of the application and it should be noted that consent may be granted or refused.

3. THE ENVIRONMENTAL STATEMENT (ES)

Introduction

3.1 The Parties are **AGREED** on all matters in relation to the adequacy of the ES and in particular are **AGREED** on those matters set out below:

Regulatory and Policy Background

3.2 The Policy Framework information is set out in Chapter 4 of the ES and Chapter 4 of the Planning Statement. The parties **AGREE** that the range of UK, Wales and local policy designations and evidence as set out in Chapter 4 of the Planning Statement (Document Reference 10.01) and Chapter 4 of the ES (Document Reference 6.0.2) are also of relevance.

Methodology

3.3 The Parties **AGREE** that the approach of identifying and assessing a realistic worst case scenario from within the Project parameters is reasonable and appropriate and that the scenario assessed for each topic chapter cited below is appropriate.

4. AIR QUALITY

Methodology / Data Collection / Baseline

4.1 The Parties **AGREE** that the methodology used to model the impacts of the Project on local air quality is appropriate.

Assessment of Construction Phase

- 4.2 The Parties **AGREE** that emissions from construction activities would not be likely to give rise to any significant adverse effects on sensitive statutory habitats. This applies to both Option 1 and Option 2 construction scenarios.
- 4.3 The Parties **AGREE** that successful implementation of an agreed Code of Construction Practice and construction mitigation plans, which include a site specific dust management plan, to be secured by Requirements 10 and 11, Schedule 2 to the draft DCO and as discussed in paragraph 5.7.2 to 5.7.3 and 5.4.31 of the ES, should ensure that construction dust would not give rise to any significant adverse effects on sensitive statutory habitats.

Assessment of Operational Phase

- 4.4 Information regarding the assessment of air quality impacts from the operation of the Project is discussed in Sections 5.6.31 to 5.6.82 of the ES. This relates to the operational scenarios of Option 1 (full installation) and Option 2 (phased installation).
- 4.5 The Parties **AGREE** that a stack height of 80 metres is sufficient for Option 1 and Option 2 to overcome building downwash effects from buildings within five times the proposed stack height to minimise ground-level process contributions as far as practicable without excessive cost in accordance with best available techniques (BAT).
- 4.6 The Parties **AGREE** that emissions from the Project can be controlled effectively through the Environmental Permit to ensure these do not give rise to adverse environmental and human health impacts.

5. ECOLOGY

Methodology / Data Collection / Baseline

- 5.1 Both Parties **AGREE** that the study area for ecological receptors discussed in paragraphs 6.3.1 and 6.3.2 of the ES has been appropriately defined in relation to potential effects on such receptors.
- 5.2 Both Parties **AGREE** that the appropriate scope of desk study research and field surveys discussed in section 6.3 of the ES has been undertaken in respect of statutory designated species and habitats with the potential to be affected by the Project.
- 5.3 Both Parties **AGREE** that the Ecological Impact Assessment within the ES has been produced in accordance with the Institute for Ecology and Environmental Management ("IEEM") "Guidelines for Ecological Impact Assessment" (2006).
- 5.4 Both Parties **AGREE** that the following protected species/groups may potentially be affected by the Project without appropriate mitigation: small blue butterfly, invertebrates, reptiles, breeding birds, kidney vetch and bats.

Mitigation

- 5.5 Information regarding ecological mitigation measures is discussed within Section 8.8 of the ES.
- 5.6 Both Parties **AGREE** that the delivery of an agreed Code of Construction Practice (CoCP) and Habitat Management Plan (to be secured by Requirements 10 and 9 respectively in Schedule 2 to the draft DCO) is appropriate and should ensure the protection of habitats during and post-construction. The following mitigation measures are proposed:

Reptiles

- (a) Undertake the translocation of reptiles and management of the habitat as outlined in Appendix 6.7 Habitat Management Plan and as required by DCO Requirement 9.

Kidney Vetch

- (b) Undertake the translocation of the kidney vetch in line with the methods proposed in the Appendix 6.7 Habitat Management Plan.

Bats

- (c) Toolbox talks will be given as outlined in Appendix 6.7 of the Habitat Management Plan and the CoCP in the event of Option 1 only.

Breeding Birds

- (d) Removal of vegetation that has the potential to support breeding birds will occur outside the breeding bird season (clearance October to February inclusive). If clearance is required within the breeding season, the area will first be inspected by an ecologist a maximum of 48 hours before work begins.

Eels

- (e) To allow eels to escape and to minimise impacts to eels, wet ditches will be infilled by hand to a depth sufficient to dry the wet area.

Invasive Species

- (f) The Environment Agency Knotweed Code of Practice: Managing Japanese Knotweed on Development Sites (Version 3) amended in 2013, will be implemented.

Fish

- (g) To minimise impacts to fish, ditches will be retained to prevent injury or killing of fish through habitat degradation

Invertebrates

- (h) An area to the north of the site will be fenced and managed as an “invertebrate sanctuary” with appropriate management to provide an optimum habitat for invertebrates as per the Habitat Management Plan required by DCO Requirement 9.

6. LANDSCAPE AND VISUAL IMPACTS

Methodology / Data Collection / Baseline

- 6.1 Both Parties **AGREE** that the assessment methodology for the landscape and visual assessment is appropriate.

Assessment

- 6.2 Both Parties **AGREE** that an adequate assessment of landscape and visual impacts has been undertaken.

Mitigation

6.3 Both Parties **AGREE** that a DCO requirement requiring the prior approval of a landscaping scheme is an appropriate way to secure the site landscape proposals. This scheme must be submitted to and approved by the local planning authority before the commencement of the relevant stage of the Project (see Requirement 6). The proposed landscaping would be within the area shown on Plan 2.05 (Indicative Site Layout Plan Sheet 1).

7. **LAND POTENTIALLY AFFECTED BY CONTAMINATION**

7.1 A specification for further intrusive site investigation works was prepared and submitted to NRW for agreement on 21st July 2014 and an interim factual and interpretative site investigation report provided on the 21st January 2015. A meeting was held on 5th February 2015 to discuss the interim findings. The final report will be provided late March / early April.

7.2 Both parties **AGREE** that the DCO must include a requirement requiring a scheme for dealing with contamination to be approved by the relevant planning authority in consultation with NRW prior to the commencement of the Project construction.

7.3 Both Parties **AGREE** that the scheme must include a remedial options appraisal setting out the measures to be taken if contamination is found on the site. Both Parties **AGREE** that this approach is appropriate for addressing land potentially affected by contamination.

7.4 The wording of Requirement 18 (Contaminated land and groundwater) in revision 2 of the DCO (submitted to the ExA on 5 March 2015 and set out in Appendix 1 of this SOCG) is **AGREED**.

8. **SURFACE WATER ENVIRONMENT**

Water Balance Modelling Methodology

8.1 Information regarding the water balance modelling assessment methodology is contained in Section 14.3 of the ES and Appendix 14.2.

8.2 Both Parties **AGREE** that the methodology used to model the impacts of the proposed development on the surface water environment is appropriate and that the Applicant has demonstrated that abstractions will remain within the allowances of the existing Environmental Permit.

Water Abstraction Hierarchy

8.3 Both Parties **AGREE** that the project's water abstraction requirements can be controlled and regulated through the water abstraction licences required under the Water Resources Act 1991.

8.4 Both Parties therefore **AGREE** that it is not necessary for the DCO to include a requirement for a water abstraction hierarchy to be agreed with NRW. However the parties **AGREE** that the arrangements for the management of the project's water abstraction requirements will be set out in a memorandum of understanding to be signed by the applicant, ABP, and NRW that will include:

8.4.1 the enforcement of the abstraction hierarchy referred to in the ES;

8.4.2 monitoring of flows at the Marcroft gauging station; and

8.4.3 issuing advisory notices to the Applicant when low flows are not expected to meet the Project's abstraction requirements.

Code of Construction Practice

- 8.5 As outlined in Chapter 15 of the ES and Appendix 15.1 (Code of Construction Practice), both parties **AGREE** that the Applicant has sufficiently outlined the mitigation measures to be undertaken during the construction phase to minimise and manage any potential impact on the surface water environment. Both Parties **AGREE** that this approach is appropriate for addressing surface water impacts during construction and that the CoCP will have to be finalised and approved by the relevant planning authority under DCO Requirement 10.

9. **NOISE**

Construction Noise

- 9.1 As outlined in Chapter 8 of the ES, the Applicant will submit a construction vibration risk assessment for approval by the relevant planning authority as part of a range of construction mitigation plans. These mitigation plans are required by Requirement 11 of Schedule 2 to the draft DCO. The plan must include a piling method statement, a construction vibration risk assessment and details of the mechanisms by which failure of noise control will be investigated and appropriate mitigation or remedial works will be implemented.
- 9.2 Both Parties **AGREE** that this approach is appropriate for addressing potential impacts of construction noise on sensitive receptors.

Operational Noise

- 9.3 Both Parties **AGREE** that the noise and vibration from the operation of the Project (including its commissioning) can be controlled effectively through the Environmental Permit and that this is the most appropriate mechanism by which the public and the environment can be protected from noise and vibration effects.

HABITATS REGULATIONS ASSESSMENT

- 9.4 The Parties **AGREE** that the Applicant's Habitats Regulations Assessment has considered all relevant protected sites and features.
- 9.5 The Parties **AGREE** that, to the best of their knowledge, all relevant developments have been considered in the assessment of in-combination effects in the Applicant's Habitats Regulations Assessment.
- 9.6 The Parties **AGREE** that the Project will not have an adverse effect on the integrity of any Natura 2000 or Ramsar sites either alone or in combination with other projects.

APPENDIX 1

REQUIREMENT IN RESPECT OF CONTAMINATED LAND AND GROUNDWATER

Contaminated land and groundwater

18.—(1) No stage of the authorised development may commence until for that stage a written scheme to deal with the contamination of any land, including groundwater, which is likely to cause harm to persons, the environment or pollution of controlled waters has been submitted to and approved by the relevant planning authority in consultation with Natural Resources Wales.

(2) The scheme must include an investigation and risk assessment report, prepared by a competent person in accordance with the guidance document which must contain—

- (a) an investigation of the extent, scale and nature of contamination;
- (b) an assessment of the potential risks to human health, the environment and controlled waters; and
- (c) a remediation scheme to bring the site to a condition suitable for the intended use by removing any unacceptable risks to human health, the environment and controlled waters which must contain—
 - (i) details of remediation works to be undertaken;
 - (ii) proposed remediation objectives and remediation criteria; and
 - (iii) site management procedures.

(3) The undertaker must carry out the remediation in accordance with the approved scheme.

(4) Construction of the authorised development must not commence until a verification report which demonstrates the effectiveness of the agreed remediation works (if required) carried out in accordance with sub-paragraph (3) has been submitted to and agreed in writing with the relevant planning authority.

(5) If contaminated land not previously identified is found during the construction of the authorised development no further works for the authorised development are to be carried out until an investigation and remediation scheme has been submitted to and approved by the relevant planning authority; and the scheme must include details of—

- (a) how the contaminated land is to be identified and assessed;
- (b) where remediation is required by the scheme, the remediation measures;
- (c) timescales for carrying out the remediation measures; and
- (d) any ongoing monitoring or mitigation requirements.

(6) Any remediation measures identified in the investigation and remediation scheme mentioned in sub-paragraph (5) must be carried out in accordance with the approved scheme.

(7) In this requirement, “the guidance document” means Land Contamination: A Guide for Developers (Welsh Local Government Association and the Environment Agency Wales, 2006).