

Planning Act 2008

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

The Port Talbot Steelworks (Power Generation Enhancement) Order

SoCG NPT.01 DRAFT Statement of Common Ground between Tata Steel UK Limited and Neath Port Talbot County Borough Council

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Appendix

Appendix 1 – DRAFT Statement of Common Ground

1. Introduction

- 1.1 The draft Statement of Common Ground (SoCG) at Appendix 1 represents the latest position between the applicant and NPTCBC at Deadline 7 (11 May 2015).
- 1.2 As agreed with NPTCBC, this SoCG is submitted in draft only at this time as NPTCBC is awaiting internal legal sign off on its terms.
- 1.3 The applicant hopes to submit a final, signed version of this SoCG before the end of the examination. The applicant hopes that the Planning Performance Agreement referred to at paragraph 3.9 below will also be agreed shortly.
- 1.4 The applicant will provide a final version of this SoCG as soon as practicable.

The Port Talbot Steelworks (Power Generation Enhancement) Order

SoCG NPT.01

DRAFT Statement of Common Ground
between Tata Steel UK Limited and Neath
Port Talbot County Borough Council

Appendix 1: DRAFT Statement of Common Ground

The Proposed Port Talbot Steelworks (Power Generation Enhancement) Order

PINS Reference: EN010062

Areas of Agreement between Tata Steel UK Limited and Neath Port Talbot County Borough Council

DRAFT Statement of Common Ground

11 May 2015

1. GENERAL

Introduction

- 1.1 This document comprises the Statement of Common Ground ("SOCG") between Neath Port Talbot County Borough Council ("NPTCBC") and Tata Steel UK Limited ("Tata") relating to the application ("the Application") for a Development Consent Order ("DCO") submitted to the Planning Inspectorate ("PINS") on 7th August 2014 for development of the Port Talbot Steelworks Power Generation Enhancement Project ("the Project"). The Application was accepted for examination by the Secretary of State on 2nd September 2014.
- 1.2 For the purpose of this SOCG, Tata and NPTCBC are jointly referred to as "the Parties".
- 1.3 Tata has applied to the Secretary of State under the Planning Act 2008 ("the Act") for a Development Consent Order to construct, operate and maintain:
 - a process gas-fired generating station (the Power Generation Plant) on land at the Port Talbot Steelworks, South Wales;
 - a 66kV electricity substation within the steelworks site;
 - a 66kV electrical connection approximately 2.8km in length between the new substation and the existing onsite substation to connect the Power Generation Plant to the local electricity distribution network; and
 - 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 site within which the Project is located is entirely within the administrative boundary of Neath Port Talbot County Borough Council ("NPTCBC").
- 1.5 The purpose of this SOCG is to set out agreed factual information between the Parties about the application. Preparation of this SOCG has been informed by discussions between the Parties.
- 1.6 Throughout this SOCG the phrase "It is AGREED" or "the Parties AGREE" is used as a precursor to any point that has been specifically agreed between the Applicant and NPTCBC. The phrase "It is not agreed...." or "the Parties do not agree" is used as a precursor to any point that the Applicant and NPTCBC wish to clearly state as not yet agreed. Points that are "not agreed" will be the subject of on-going discussion wherever possible to resolve or refine the extent of disagreement between the parties.

- 1.7 This SOCG relates to the matters agreed between the Parties on the content of the Environmental Statement submitted as part of the Application ("the ES") and other supporting documents.
- 1.8 Overall 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 Secretary of State.

2. MATTERS AGREED BETWEEN THE PARTIES

NPTCBC's Status and Meetings

2.1 It is AGREED that NPTCBC is defined as a Category "B" local authority under section 43 of the Act.

2.2 It is AGREED that meetings, prior to the submission of the Application, were held with Tata and NPTCBC (along with others) on the following dates:

- 11th December 2012
- 4th March 2013
- 28th April 2013
- 30th May 2013
- 7th October 2013
- 11th February 2014
- 5th March 2014
- 26th March 2014
- 16th April 2014
- 28th April 2014
- 1st May 2014
- 29th May 2014
- 19th June 2014

2.3 It is AGREED that meetings, following the submission of the Application, were held with Tata and NPTCBC (along with others) on the following dates:

- 20th October 2014
- 5th February 2015
- 3rd March 2015
- 15th April 2015
- 27th April 2015

The Environmental Statement

2.4 The ES comprises document reference 6.01, 6.02, 6.03, and 6.04 of the Application.

2.5 The Parties are AGREED on all matters in relation to the adequacy and conclusions of the ES and in particular are AGREED on those matters set out below.

- 2.6 The methodology for the environmental impact assessment is set out in Chapter 2 of the ES which describes the approach taken for all topics (except to the extent described in the methodology section in each topic chapter).
- 2.7 Both Parties AGREE that the approach of identifying and assessing the realistic worst case scenario of the Project parameters is reasonable and appropriate and that the scenario assessed for each topic chapter cited below is appropriate.
- 2.8 It is AGREED that the ES forms a full and complete ES for the purposes of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (the EIA Regulations).

Regulatory and Policy Background

- 2.9 The Policy Framework information is set out in Chapter 4 of the ES and Chapter 4 of the Planning Statement (Document Reference 10.01).
- 2.10 The Act provides that an application must be decided in accordance with any relevant national policy statement (NPS) unless certain exceptions set out in section 104 of the Act apply. NPSs EN-1, EN-2, EN-4 and EN-5 are relevant for the purposes of the Project.
- 2.11 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.
- 2.12 The Parties AGREE that the Project has been developed with appropriate consultation with local communities.
- 2.13 The Parties AGREE that the site of the Power Generation Plant is previously-developed land allocated as 'white land' in the NPTCBC Unitary Development Plan (the UDP).
- 2.14 The Parties AGREE that that they do not intend to make further representations in respect of the regulatory and policy background as part of the examination.

Cumulative Effects

- 2.15 Both Parties AGREE that all reasonably foreseeable relevant schemes have been included in the assessment of cumulative impacts correct as at July 2014, and that the cumulative effects of these have been adequately considered.

The Principle of Development

- 2.16 The Parties AGREE that the proposed development accords with the relevant planning policy context set out Chapter 4 of the Planning Statement (Document Reference 10.01) and is acceptable "in principle".

Landscape and Visual Impacts

- 2.17 The Landscape and Visual Assessment is contained in Chapter 7 of the ES.

Methodology / Data Collection / Baseline

- 2.18 Information regarding the assessment methodology for the landscape and visual impact assessment is contained in Section 7.3 of the ES and information on the baseline is contained in Section 7.5 of the ES.
- 2.19 Both Parties AGREE that the assessment methodology for the landscape and visual assessment is appropriate.

Assessment

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

Mitigation

- 2.21 Both Parties AGREE that a landscaping scheme is an appropriate way of agreeing the site landscape proposals including new planting to help screen the development. 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).

Air Quality

- 2.22 The Air Quality and Emissions information is contained within Chapter 5 of the ES.

Methodology / Data Collection / Baseline

- 2.23 Information regarding the air quality assessment methodology is contained in Section 5.4 of the ES and information regarding the baseline is contained in Section 5.5 of the ES.
- 2.24 The Parties AGREE that the air quality monitoring scheme required by Requirement 17 and the controls on emissions from the proposed development through the environmental permit (issued and enforced by NRW) will together provide sufficient control over air quality impacts related to the operational stage of the proposed development.
- 2.25 Both Parties AGREE that the air quality standards, critical loads and critical levels, specified in the tables contained in Appendix 5.4 and Sections 5.4.93 to 5.4.104 against which impacts are assessed, are appropriate.
- 2.26 Both Parties AGREE that the Air Quality Assessment ("AQA") as presented in Chapter 5 of the ES provides a reasonable likely worst case assessment of the predicted emissions from the Project and the consequent effects on nitrogen concentrations and deposition over statutory designated nature conservation sites.

Assessment of Construction Phase

- 2.27 In the context of the ES, assessment includes the data and statistical analysis, the application of expert judgement and assumptions, and the quantification of impacts described in the ES in order to reach the conclusions on likely significant effects.
- 2.28 Information regarding the assessment of impacts from construction is discussed in Sections 5.6.1 to 5.6.16 of the ES. Information regarding the impact of construction traffic is provided in Sections 5.6.17 to 5.6.30 of the ES.
- 2.29 Both Parties AGREE that construction traffic 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.

Assessment of Operational Phase

- 2.30 Information regarding the assessment of impacts from 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).

- 2.31 Both 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).
- 2.32 Both Parties AGREE that the process contribution identified in the Assessments for Option 1 and Option 2 in section 5 of the ES is not categorised as significant and it is unlikely that an emission at this level would make a significant contribution to air quality (according to Environment Agency H1 Annex F Guidance).
- 2.33 Both Parties AGREE that operational traffic would not be likely to give rise to any significant adverse effects on sensitive receptors habitats.

Mitigation

- 2.34 Information regarding the air quality mitigation measures proposed is contained in Section 5.7 of the ES.
- 2.35 Both 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.
- 2.36 The Parties are in ongoing discussions regarding the sourcing and securing of air quality mitigation measures and whether the air quality monitoring scheme required by Requirement 17 and controls on emissions from the proposed development through the environmental permit (issued and enforced by Natural Resources Wales ("NRW")) will together provide sufficient control over air quality impacts related to the operational stage of the proposed development.

Noise & Vibration

- 2.37 The Noise and Vibration information is contained within Chapter 8 of the ES.
- 2.38 Both parties AGREE that the standards and methodologies used to assess noise and vibration impacts are adequate. It is agreed that there will be no significant adverse impacts from construction activities.
- 2.39 The Parties AGREE that noise and vibration impacts are dealt with adequately in the DCO requirements (see below)

Ecology

- 2.40 The Nature Conservation / Ecology information is contained within Chapter 6 of the ES.

Methodology / Data Collection / Baseline

- 2.41 Information regarding the assessment methodology for the ecological impact assessment is contained in Section 6.3 of the ES and information on the baseline is contained in Section 6.5 of the ES.
- 2.42 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.
- 2.43 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.

- 2.44 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).

Assessment (Habitats)

- 2.45 Information regarding the impacts of the Project on habitats is contained in Section 6.7 of the ES.

Assessment (Protected Species)

- 2.46 Information regarding the impacts of the Project on protected species is contained in Section 6.7 and Table 6.6 of the ES.

- 2.47 Both Parties AGREE that the European Protected Species Licence (EPS) will not be required.

- 2.48 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.

- 2.49 Both Parties AGREE that breeding birds and bats are unlikely to be present within the Project site.

Mitigation

- 2.50 Information regarding ecological mitigation measures is discussed within Section 8.8 of the ES.

- 2.51 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.

- 2.52 Significant effects upon the population of a rare small blue butterfly are unlikely to occur due to the translocation of the kidney vetch, as outlined in the Habitat Management Plan. In addition, the translocation of reptiles on the electrical connection will be implemented as set out in the ES in Chapter 6 Ecology, Chapter 16 Mitigation Schedule and secured by the Requirements described below.

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.

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, the wet ditch will be infilled by hand to a depth sufficient to dry the wet area.

Invasive Species

- (f) Mitigation measures to manage invasive species such as Japanese Knotweed will be implemented in line with Chapter 6 sections 6.8.33 – 6.8.36.

Fish

- (g) To minimise impacts to fish, water filled ditches to the south to the site will be retained to prevent injury or killing of fish through habitat degradation. If eels are likely to be present, additional mitigation measures will be implemented through the Habitat Management Plan and CoCP.

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.

Traffic & Transport

- 2.53 The Traffic and Transport information is contained within Chapter 10 of the ES.
- 2.54 The Parties AGREE that the proposed development will not have any adverse impact on highway safety nor will it increase dependency on private vehicles. It is agreed that the proposed route of construction traffic via Harbour Way from Junction 34 of the M4 will ensure that there will be no unacceptable impacts, during both the construction and operational phase, upon residential amenity in terms of traffic noise, air emissions, and vibrations.

Socio-economic Impacts

- 2.55 The Socio-economic information is contained within Chapter 12 of the ES.
- 2.56 The Parties AGREE that the continuation of steel production at the Tata Steelworks in Port Talbot has local, regional and national significance and that the proposed development will help to protect the long term future of steel making in south Wales. It is agreed that the proposed development will deliver significant direct and indirect benefits to the local economy during construction.
- 2.57 The Parties AGREE that there will not be any adverse impacts on tourism in connection with the proposed development.

Health and Safety

- 2.58 The Parties AGREE that the applicant will provide to the Examining Authority a HS1 Stage 'High Level' Risk Assessment during the examination.

2.59 The Parties AGREE that if such report is provided an additional requirement in relation to health and safety of the proposed development will not be necessary.

3. THE DRAFT DEVELOPMENT CONSENT ORDER

Article 2 - Definitions

- 3.1 The Parties AGREE that the definition of "maintain" is appropriate when read in conjunction with Article 4.

Article 4 - Power to maintain authorised development

- 3.2 The Parties AGREE that the wording of Article 4 appropriately limits the replacement of any whole numbered work listed in Schedule 1 to the DCO

Article 8 - Statutory nuisance

- 3.3 The Parties AGREE that the defence to statutory nuisance contained in Article 8 of the DCO is appropriate in principle.
- 3.4 The Parties AGREE that the additional wording added to Article 8 makes clear that the defence would only be available where the project is constructed and operated in accordance with the specific noise management measures required under the terms of the DCO. The Parties will agree the content of the Piling Method Statement (which forms part of the specific noise management measures required under the terms of the DCO) to address NPTCBC's submissions regarding the inclusion of Article 8. The final Piling Method Statement will be approved by NPTCBC pursuant to requirement 11 of Schedule 2 (Requirements) to the DCO prior to the commencement of the Project.

Article 24 and 'design principles document' (design of the buildings)

- 3.5 The Parties AGREE that the design of the buildings and detailed submission in respect of requirement 4 of Schedule 2 (Requirements) to the DCO should reflect the principles set out in the design principles document attached at Appendix 1
- 3.6 The Parties AGREE that the obligation at requirement 4(5) (that the final design for approval must comply with the design principles document) provides an appropriate framework to ensure a high quality design can be achieved for the proposed development in line with the parameters established by Requirement 4 of the DCO.
- 3.7 The Parties AGREE it is appropriate that the 'design principles document' is a certified document under article 24(1)(e).

Article 26 (and Schedule 5) - Procedure for the discharge of requirements

- 3.8 The Parties AGREE that the process for the discharge of requirements under the DCO should be as efficient as possible to support the streamlining of the consenting process envisaged under the Act.
- 3.9 The Parties AGREE IN PRINCIPLE that, subject to the completion of a satisfactory Planning Performance Agreement, the wording of schedule 5 of version 3 of the DCO is an acceptable method to manage the procedure for the discharge of requirements. The parties are in discussion with regard to a Planning Performance Agreement in order to ensure that the requirements are discharged and are close to reaching agreement.
- 3.10 The Parties AGREE that the DCO may include an expedited appeals process.
- 3.11 The Parties AGREE that the wording of Schedule 5 shall not include provision for deemed consent.

Schedule 1 –Authorised development

- 3.12 The Parties AGREE that all of the elements of the proposed development set out at Schedule to the draft DCO are either the Nationally Significant Infrastructure Project ("NSIP") or form part of the NSIP applied for and are therefore consistent with sections 14 and 31 of the Act.

Requirement 4 – Detailed design

- 3.13 The Parties AGREE that the ability to amend the maximum parameters of the turbine hall and boiler house is adequately constrained by the wording of Requirement 4(3)(a) & (b), subject to some minor drafting amendments which are under discussion between the Parties.

Requirements 6, 7 and 12 - Landscaping, Fencing, Lighting

- 3.14 The Parties AGREE that the wording of these requirements adequately reflects the Environmental Statement.

Requirement 8 – Archaeology

- 3.15 The Parties AGREE that the archaeological impacts of the proposed development can be adequately addressed under Requirement 8 which requires a Written Scheme of Investigation.

Requirement 10 - Code of Construction Practice

- 3.16 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 surrounding environment from construction activities. These include dust, waste, water, emergency response and flood risk management, construction traffic management, pollution and noise management.
- 3.17 The Parties AGREE that that this approach is appropriate for addressing environmental management during construction and that the CoCP will have to be finalised through DCO Requirement 10.
- 3.18 The Parties AGREE that all relevant commitments set out within the ES are secured by the cross references to the ES contained at Requirement 10(1).

Requirement 11 – Approval and Implementation of Construction Mitigation Plans

- 3.19 As outlined in Chapter 8 of the ES, the Applicant will submit a construction vibration risk assessment for approval by NPTCBC as part of a range of construction mitigation plans. These mitigation plans are required by Requirement 11 of Schedule 2 to the draft DCO. A specification for the vibration risk assessment including determining the probability of damage from construction activities will also be prepared and submitted for agreement with NPTCBC. The noise management plan will include measures to be applied in the event that a noise or vibration incident occurs.
- 3.20 The Parties AGREE that this approach is appropriate for addressing potential impacts of construction noise on sensitive receptors.
- 3.21 The parties AGREE a Piling Method Statement is needed.
- 3.22 The Parties AGREE that that that cross references to the ES at Requirement 11(1) provides sufficient additional certainty about the content of the construction mitigation plans.
- 3.23 The Parties AGREE that the requirement to produce a Piling Method Statement under requirement 11 and the obligations to assess and manage the risk of contaminated land

in accordance with requirement 18 will adequately balance the management of noise impacts and ground contamination issues. The Parties AGREE that requirement 11 adequately controls the sourcing and securing of noise mitigation measures during construction.

Requirement 13 – Construction Hours

- 3.24 The parties AGREE with the working hours for construction as stipulated by Requirement 13.
- 3.25 The Parties AGREE that the Piling Method Statement will set out any restrictions on piling hours (within the agreed construction hours).

Requirement 14 – Control of noise during operational phase

- 3.26 The Parties AGREE that operational noise and vibration will be subject to control by an environmental permit issued by NRW.
- 3.27 The Parties AGREE that requirement 14 adequately controls the sourcing and securing of noise mitigation measures during operation.

Requirement 15 – Surface and foul water drainage

- 3.28 The Parties AGREE that the wording of requirement 15 is sufficient to manage surface and foul water drainage.

Requirement 17 – Air Quality Monitoring

- 3.29 The Parties AGREE that the air quality monitoring scheme required by Requirement 17 and the controls on emissions from the proposed development through the environmental permit (issued and enforced by NRW) will together provide sufficient control over air quality impacts related to the operational stage of the proposed development.

Requirement 18 - Contaminated Land and Groundwater

- 3.30 The Parties AGREE that, in addition to the preparation of a piling method statement as part of the Noise Management Plan required by Requirement 11 (noise), a piling method statement (setting out the method and location of the piling) should also be prepared as part of the wider risk assessment needed to discharge Requirement 18 (contaminated land). Wording has been added to requirement 18 to reflect this in version 4 of the draft DCO. The parties AGREE that this wording is acceptable.
- 3.31 The Parties AGREE that Requirement 18 provides a comprehensive framework for addressing land potentially affected by contamination.