

SOUTH TEES DEVELOPMENT CORPORATION

**RELEVANT REPRESENTATION ON THE PROPOSED NET ZERO TEESSIDE DEVELOPMENT
CONSENT ORDER**

1 Executive Summary

1.1 South Tees Development Corporation (**STDC**) maintains its in-principle support of the Net Zero Teesside (**NZT**) proposals. The project will be a significant generator of jobs, directly and indirectly into the Tees Valley and also a contributor to the regeneration of the Teesworks area, with investment in line with the industrial typologies that STDC's Master Plan seeks to attract. STDC has been liaising with the NZT promoters for over two years and is pleased that a number of its earlier concerns have been addressed. However, STDC continues to have significant concerns about the NZT DCO proposals and, accordingly, is **objecting** to the proposals absent satisfactory resolution of its concerns at this stage.

1.2 In summary, the reasons for STDC's objection are as follows:

1.2.1 Land-related Issues

- (a) Excessively wide land requirements in order to connect utilities;
- (b) Streets, rights of way and accesses;
- (c) Temporary land for construction;
- (d) The technical and operational impact that the NZT project will have on the STDC private wire network;
- (e) The Applicant's programme;
- (f) Sterilisation of, and conflict with, the Teesworks Development; and
- (g) Land assembly by agreement.

1.2.2 DCO-related Issues

- (a) Issues with DCO Articles and Schedules;
- (b) Inadequate Protective Provisions; and
- (c) Issues with DCO documents.

1.2.3 Environment and policy-related Issues

- (a) Habitat Regulations Assessment (**HRA**);
- (b) Assessment of alternative gas pipeline connections;

- (c) Construction traffic assessment;
- (d) Treatment of tunnel arisings; and
- (e) the assessment of the scheme against planning policy.

2 Introduction

- 2.1 This relevant representation summarises STDC's key concerns in respect of the Net Zero Teesside project (the **Project**).
- 2.2 The proposed Net Zero Teesside Development Consent Order (the **draft Order**) was initially submitted by Net Zero Teesside Power Limited and Net Zero North Sea Storage Limited (the **Applicant**) on 21 May 2021 but withdrawn on 16 June 2021. The Order was resubmitted on 19 July 2021 and accepted for examination by the Planning Inspectorate on 16 August 2021.
- 2.3 STDC is a Mayoral Development Corporation responsible for approximately 4,500 acres (1,820 hectares) of land to the south of the River Tees, in the Borough of Redcar and Cleveland. A plan of STDC's area is set out at **Appendix A (Teesworks)**. STDC was the first Mayoral Development Corporation established outside of London, being established pursuant to the powers devolved to the Tees Valley Mayor under the Tees Valley Combined Authority (Functions) Order 2017. The object of a development corporation is to secure the regeneration of the land in respect of which it is designated, and the Teesworks site is the largest regeneration opportunity in the UK.
- 2.4 The Project lies within the boundary of land owned and controlled by STDC and STDC is therefore directly impacted by the Project as a major landowner. STDC is an 'affected person' within the meaning of section 59(4) of the Planning Act 2008 (the **2008 Act**) and as such is a statutory party for the purposes of section 88(3A) of the 2008 Act.
- 2.5 STDC submits this representation on behalf of itself, as well another entity it controls. STDC's interests appear in the Applicant's Book of Reference (APP-007) under the following entities:
- 2.5.1 South Tees Developments Limited (Company No. 11747311)¹
- 2.5.2 Teeswork Limited (Company No. 12351851)
- 2.6 STDC retains in-principle support for the Project, however for the reasons set out in this relevant representation, STDC **objects** to the proposals in their current form.

¹ The Book of Reference incorrectly refers to "South Tees Development Limited" rather than "South Tees Developments Limited" the latter being the correct name as per Companies House.

3 Background and the potential impact on STDC

- 3.1 Teesworks comprises approximately 4,500 acres (1,820 hectares) to the south of the River Tees, in the Borough of Redcar and Cleveland. The majority of this land was acquired by STDC under the *South Tees Development Corporation (Land at the former Redcar Steel Works, Redcar) Compulsory Purchase Order 2019* (the **2019 CPO**).
- 3.2 Subsequent to the 2019 CPO, STDC has been proactive in initiating redevelopment of the Teesworks area, supporting and coordinating enabling works for redevelopment. The regeneration of the area is being supported by Government, who awarded the Development Corporation £123million of funding to begin land remediation, paving the way for large-scale industrial investment.
- 3.3 To date, STDC has implemented a number of site preparation projects across Teesworks, clearing derelict structures and remediating land so as to provide development plots and infrastructure to attract and support end-user developments. In December 2020, outline planning permission was granted to STDC for development of 418,000 sqm (gross) of general industrial and storage & distribution uses at the South Bank site. Throughout 2021, further permissions have been granted including for the development of an 80,000sqm facility for LM Wind's manufacturing of offshore wind turbines at South Bank, as well as the construction of a new quay. In addition, five outline application planning applications are at an advanced stage of determination, which will permit the development of almost 900,000sqm of general industrial and storage and distribution across much of the Teesworks area including within the NZT Order limits.
- 3.4 In March 2021, as part of the Spring Budget and in recognition of its national significance as a regeneration site, Teesworks was announced as one of the first places to receive Freeport status under the new Government policy to create freeports across the country. Teesworks is now the site of the UK's largest freeport and has been set up to promote the economic growth and commercial development of the Tees Valley by converting assets in the STDC's control into opportunities for business investment and economic growth.
- 3.5 Teeswork's Freeport status means businesses will benefit from a wide package of tax reliefs, simplified customs procedures, streamlined planning processes and government support to promote regeneration and innovation. For example, companies operating within the Freeport area can benefit from deferring the payment of taxes until their products are moved elsewhere, or can avoid them altogether if they bring in goods to store or manufacture on site before exporting them again.
- 3.6 To inform STDC's development strategy and to help ensure the comprehensive and efficient use of its land, it developed a master plan which informed the preparation of supplementary planning policy for the Teesworks area. When STDC was established, it was agreed between Tees Valley Combined Authority (which is the sister company to STDC, and has the same chair) and Redcar & Cleveland Borough Council (**RCBC**) that RCBC would retain planning powers and continue to act as the local planning authority for Teesworks in respect of planning policy and development management, and in the processing of planning applications. All planning applications for development proposals within Teesworks must therefore be determined in

accordance with the adopted Redcar and Cleveland Local Plan unless material considerations indicate otherwise. The Local Plan should therefore constitute an “important and relevant consideration” for the purposes of examining and deciding the NZT proposal under section 104 of the 2008 Act.

- 3.7 In accordance with its master plan, STDC is working closely with the Combined Authority, RCBC and major operators across South Tees to ensure the full development potential of the South Tees Area is realised, and that its position as an engine for growth in the economy of the Tees Valley is fully capitalised on.
- 3.8 In order for STDC to realise the full development potential of the site, it is seeking to bring those developments forward without undue disruption from the Project.
- 3.9 The proposals set out by the Applicant in their application for a Development Consent Order (**DCO**) present significant concerns to STDC. These key issues can be split into three groups:
 - 3.9.1 Land – issues with the extent of land being compulsorily acquired;
 - 3.9.2 DCO – issues with the power contained in the draft Order, and the associated application documents; and
 - 3.9.3 Environmental and planning/technical matters – comments on several environmental and technical/planning considerations in the documents accompanying the application.

4 Land

Excessively wide land requirements for utilities

4.1 Section 122 of the 2008 Act states that an order granting development consent may only include powers of compulsory acquisition where:

4.1.1 the land:

- (a) is required for the development to which the development consent relates,
- (b) is required to facilitate or is incidental to that development, or
- (c) is replacement land which is to be given in exchange for the order land under section 131 or 132; and

4.1.2 there is a compelling case in the public interest for the land to be acquired compulsorily.

4.2 The *Planning Act 2008, Guidance related to procedures for the compulsory acquisition of land* (DCLG, Sept 2013) (the **Guidance**) requires the Applicant, amongst other things, to satisfy the Secretary of State that:

4.2.1 “*all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored*”;² and

4.2.2 “*the land to be acquired is no more than is reasonably required for the purposes of the development*”.³

4.3 STDC recognises that there have been some reductions in the extent of utility corridors, but does not believe this goes far enough. SDTC’s view is that the Applicant is seeking permanent rights over utility corridors which are wider than reasonably required, and not justifiable having regard in particular to the Guidance cited above. STDC also note the apparent disparity with the extent of land required between land north of the Tees and that at Teesworks on the south bank. At North Tees, the Applicant has followed existing utilities corridors whereas at Teesworks the proposals seek excessively large land parcels for what will be small permanent requirements, particularly for interconnecting utilities. The Applicant should only be seeking compulsory acquisition powers over the minimum amount of land required for the Project. It is unclear why the proposed utility areas at Teesworks have been treated differently and designed wider than those elsewhere within the Order limits.

4.4 Chapter 4 of the Environmental Statement makes clear that the area covered by some works is larger than required and that the Applicant is making use of the “Rochdale Envelope” principle, whereby it requires additional flexibility for its Project to be carried forward into the post-consent implementation phase. STDC draws the Examining Authority’s attention to *the Planning Act*

² Paragraph 8

³ Paragraph 11

2008, *Guidance on the pre-application process* (DCLG, March 2015) (the **Pre-Application Guidance**) which states that: “*The use of the Rochdale Envelope approach does not remove the onus on applicants to submit as detailed as possible project proposals in their application*”.

- 4.5 The lack of detail on the precise location of final utility corridors within the DCO application and the temporary use of Teesworks’ land during construction hinders STDC’s future development plans, and potentially prevents the full benefits of the Freeport designation from being realised.
- 4.6 The NZT DCO currently contains two options for its natural gas connection. STDC objects to the first option which runs beneath and risks sterilising STDC land. There is a clear reasonable alternative to seeking compulsory powers over STDC’s land for this pipeline, given the established Sembcorp utility corridor (a route that is indeed also being considered as one option for the CO² Gathering pipeline route). STDC received verbal assurances from NZT’s project team that the Teesworks option would not be included within the DCO for either the natural gas or CO² gathering pipelines, owing the existence of the Sembcorp route. It is not clear why this level of flexibility has been included within the DCO when an alternative route exists that has less impact on STDC, and on the basis of previous discussions, seems to be the preferred route.
- 4.7 STDC retain significant concerns about the extent of its land included within the Project’s Order limits for utilities. It is not clear from the application documents why plot 525 (and nearby plots) are so extensive given STDC’s understanding of the Applicant’s water pipeline requirements.
- 4.8 STDC shared its own utility corridor information with the Applicant in late 2020 (pre-submission of the DCO). The utility corridors provided by STDC are a reasonable alternatives to compulsory acquisition which the Applicant has not properly considered prior to submission of the application.
- 4.9 Given the significant impacts of the Project on Teesworks, compulsory acquisition cannot be justified merely on the basis that it would be more convenient to the Applicant to set its detailed land requirements post grant of DCO.
- 4.10 To address this, STDC requires that the DCO application is amended to:
 - 4.10.1 remove the gas pipeline option which runs across Teesworks from the DCO;
 - 4.10.2 remove the CO² gathering pipeline option which runs across Teesworks from the DCO;
 - 4.10.3 reduce the width of the utility corridors such that they correspond to the extent of land that will reasonably be needed;
 - 4.10.4 utilise existing utility corridors within Teesworks instead of sterilising land with new corridors; and
 - 4.10.5 provide greater clarity and certainty as to any temporary use of Teesworks’ land, including for construction activities and storage of material including tunnel arisings.

- 4.11 STDC has received assurances from the Applicant that pipelines can be installed sufficiently far below the surface to prevent sterilisation of land, however controls over the vertical limits of deviation for sub-surface works (and any controls in respect of them) are not apparent from the application documents or DCO, and STDC therefore requires this assurance to form part of the draft Order.
- 4.12 STDC considers that, as matters stand, the Project fails to comply with section 122 of the 2008 Act and the associated Guidance insofar as STDC's interests in land are concerned. The Applicant cannot demonstrate that all of the land subject to compulsory acquisition is required, and therefore a compelling case in the public interest is not made out for the extent of powers being sought.

Streets, rights of way and accesses

- 4.13 The Applicant seeks permanent and temporary rights over streets, rights of way and accesses under STDC's control, and a suite of related works powers contained in the draft Order. STDC is investing significant resources as part of its own development proposals to improve such streets and their entrances. Third parties rely upon use these streets and STDC has suggested reasonable alternatives, including a park and ride scheme. STDC is open to entering into legal agreements in respect of these interests but no such agreement has been forthcoming from the Applicant. Given the existence of alternatives, STDC does not believe that the Order land comprising streets within Teesworks is required for the Project. STDC is therefore seeking the removal of several of the relevant plots of land from the scope of compulsory acquisition.
- 4.14 STDC note from ES Vol III Appendix 16B Framework Construction Worker Travel Plan (APP-333) that "*Construction worker vehicles on arriving via the site entrance will be directed to the parking area located at Steel House*" and that "*an area of hardstanding will be set aside at Steel House within the Site to accommodate parking for construction workers. A park and ride system will then transport the workers to the PCC Site*". However, this appears to impose a significant burden on the local road network because construction worker traffic would be mixing with park and ride buses at one of the principal access points into Teesworks, at the Redcar Gatehouse.
- 4.15 Given that NZT are relying on using a park and ride system to transport construction workers across the various site areas, it seems reasonable for the parking element to be located such that construction worker traffic is not using one of the principal access points into Teesworks (only the buses that are transporting them). This would remove the requirement for the hardstanding parking area at Teesworks and would enable STDC to deliver future development projects on its land. STDC is undertaking discussions with the Applicant on its use of the Freeport land for parking and for construction traffic, including the potential provision of a more appropriate construction traffic parking solution than that set out in the DCO

Temporary land for construction

- 4.16 STDC note from the application documents that the Applicant is seeking temporary possession over a number of its interests. A number of these plots are required by STDC for its own development proposals. The Applicant will significantly hinder STDC's development proposals if it takes such powers and sterilises parts of Teesworks for the duration of the Applicant's works.

STDC opposes temporary possession of its land as currently proposed under the draft Order, which should instead be secured by agreement with STDC.

4.17 STDC has engaged with the Applicant on the prospect of voluntary agreements, but no agreement has been reached. As it stands, the Applicant has failed to adequately negotiate for these interests, noting the expectations of Guidance in this respect.

4.18 Specifically, STDC has the following concerns:

4.18.1 **Plots 274 and 279** (temporary use) – STDC believes it has an interest in plot 274 and is currently engaged in a dispute with a third party in respect of plot 279. STDC understands that these plots relate to a new accessway however such use would not be appropriate, and is accordingly objected to, given the current third party dispute in respect of plot 279.

STDC notes that the Book of Reference states that plot 274 is in unknown ownership. Plot 274 is a verge, directly adjacent to land belonging to STDC. The Applicant has not applied the ad-medium filum rule whereby adjacent landowners (STDC) are presumed owners of the subsoil up to the half way point of the highway. The Applicant's Statement of Reasons is silent on how it has established ownership of unknown interests such as this, and it is unclear to STDC whether the Applicant has considered the ad-medium filum rule. The Applicant must comply with its duty of diligent inquiry in identifying interests, and this is a matter the Examining Authority should interrogate.

The Book of Reference needs to be updated to reflect STDC interest on plot 274.

On plot 279, STDC has made clear there was an alternative route which the Applicant could have used for access instead of this plot. However, it seems that the alternative route has not been included within the Applicant's Order limits. In accordance with the Guidance, land should not be compulsorily acquired without first considering reasonable alternatives.

Plots 279 should be removed from the scope of the draft Order and the Applicant should use the alternative route proposed by STDC. Plot 274 should also be removed if it is only needed in connection with plot 279 (something STDC is unable to confirm given the absence of a table to the Statement of Reasons connecting each plot to a Work No.)

STDC note that the protective provisions for the protection of PD Teesport Limited define "the PD Teesport operations" as "*the port operations or property within the Order limits vested in PD Teesport Limited, including access to and from the port via Tees Dock Road.*" STDC wish to make clear that PD Teesport Limited does not have access to and from the port via Tees Dock Road (plot 279) given that the gate on this road belongs to STDC. This matter is subject to an ongoing dispute.

- 4.18.2 **Plot 293** (temporary use) – This plot forms part of the Teesside Freeport and seems to be required by the Applicant for parking and temporary laydown. The effect of including this plot within the Order limits is that part of the Freeport will be sterilised. STDC is proposing a park and ride scheme as an alternative to temporary acquisition of this plot. Any other laydown required in this area could form part of plot 342. The details of the park and ride scheme are being finalised by STDC and optioneering process to identify the best location for the park and ride is ongoing. STDC hope to conclude this optioneering exercise shortly. In accordance with the Guidance, all reasonable alternatives to compulsory acquisition must be explored and STDC is clearly proposing such an alternative. In light of this, and the significant impact on the Freeport, STDC requests that the land be removed from the scope of the draft Order.
- 4.18.3 **Plots 290 and 291** (temporary use) – These plots form part of the Teesside Freeport. STDC believes that the Applicant has again failed to consider reasonable alternative sites which may be used for its works. The land should be removed from the scope of the draft Order and the Applicant should engage with STDC on reasonable alternatives, outside of the Freeport.

STDC private wire network

- 4.18.4 **Plots 540a, 540b, 540c, and 393a and 393b** –
- 4.18.5 In its connection offer from National Grid (which interfaces with these plots), the Applicant was required to consider the impacts on third parties and associated works. The Applicant highlighted this to STDC in February 2021 and agreed to undertake a study. The study completed in November 2021 and confirmed that the NZT facilities operations could impact upon the Teesworks private wire network.
- 4.18.6 The potential impact on STDC is that the Project could cause failure of the STDC high voltage (HV) system and, as a consequence, prevent/disrupt operations (consumption of electricity) by STDC and other site residents.
- 4.18.7 Since completion of the study on impacts to STDC's private wire network, a working group has been established with representatives from STDC and the Applicant. The group is tasked with assessing solutions to prevent the impact on STDC's private wire network. The associated modelling is progressing and is expected to complete in January 2022.

The Applicant's programme

- 4.19 The timing of the Applicant's proposals coincide with STDC's own development proposals. Whilst STDC and the Applicant have been discussing the interface between the two projects and this will continue up to and during the examination period, an interface agreement is not yet in place.
- 4.20 STDC requires the interface between the two projects (in terms of phasing as well as the location of proposed development) to be satisfactorily managed via the protective provisions. Without such a measure, STDC's own development proposals are not sufficiently protected.

Sterilisation of, and conflict with, the Teesworks Development

- 4.21 For the reasons outlined above, as matters stand in the DCO application the development proposals have the potential to lead to the under-utilisation or sterilisation of large tracts of land within Teesworks earmarked for regeneration. The DCO Order limits (outwith the main PCC facility) include part of the Teesworks Freeport tax free zone. STDC, the Freeport, and the wider community will be deprived of the time-limited tax benefits in relation to those plots while the Applicant is in possession of the land. Put another way, absent resolution of the matters outlined above, implementation of NZT would be at odds with the statutory designations which have been put in place to secure the regeneration of Teesworks, and contrary to the Local Plan. Whilst STDC and its interest do not currently engage section 127 of the 2008 Act, the potential impacts of NZT would be tantamount to causing a serious detriment to the achievement of the objects and purposes of the Teesworks site.
- 4.22 The Guidance requires the Applicant to satisfy the Secretary of State that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired. Were the compulsory powers in the DCO granted (in their current form), STDC would be unable to bring forward its own development proposals. STDC has already satisfied the Secretary of State of the compelling case for its own development proposals when acquiring Teesworks through the 2019 CPO. STDC has similarly satisfied the Secretary of State of the national significance and benefits of Teesworks in achieving Freeport status.
- 4.23 STDC request that the Examining Authority consider whether, in the context of the extent of powers sought by NZT over STDC's land and interests, there is compelling evidence that the public benefits of the Project would outweigh those contained within STDC's existing proposals, already endorsed by the Secretary of State.

Land assembly by agreement

- 4.24 STDC is seeking to enter into a lease with the Applicant for all of the land subject to permanent acquisition in the DCO (although this does not currently include the permanent land required for substations). It is understood by STDC that the Applicant does not wish to acquire the land permanently. Negotiations on the lease have been ongoing and the commercial terms around the lease are yet to be agreed.
- 4.25 The Guidance requires the Applicant to seek to acquire land by negotiation wherever practicable and to only seek powers of compulsory acquisition if attempts to acquire by agreement fail. It is unclear to STDC why the Applicant has submitted its application for a DCO without progressing negotiations with STDC for the temporary and permanent rights required for the Project, beyond the main application site. STDC is mindful of the Applicant's programme but it is unreasonable to seek compulsory acquisition powers without first entering into meaningful or genuine negotiations for those interests.
- 4.26 A number of third parties have rights to use STDC's land and will be impacted by the scheme. STDC notes that a number of those third parties are listed in the Applicant's Book of Reference or otherwise in the Statement of Reasons. However, it is unclear to what extent the Applicant has sought to acquire those interests by agreement.
- 4.27 STDC's position is that its land and interests should be removed or restricted from the scope of compulsory acquisition powers under the DCO, with land assembly instead being dealt with by agreement, as acknowledged by the Guidance.

5 DCO

Issues with DCO Articles and Schedules

- 5.1 **Article 2 “permitted preliminary works”** – It is not yet clear to STDC what impact the “permitted preliminary works” will have on Teesworks. Since these works are, on the face of it, wide-ranging in scope, and would precede the discharge of requirements, STDC needs to understand their scale, timing and location. Since they will coincide with other major development taking place at the site, STDC will need to be satisfied that sufficient protections are in place (e.g. through protective provisions) to ensure the “permitted preliminary works” are appropriately controlled and coordinated.
- 5.2 **Article 12 – Construction and maintenance of new or altered means of access** – as above, STDC objects to the Applicant’s construction of a new access on Tees Dock Road (set out in Part 2 to Schedule 5 to the draft Order). This land belongs to STDC and should not be constructed on in order to ensure the integrity of the wider STDC site. There may be security risks to STDC if such an access is constructed. The land at Tees Dock Road forms part of plots 274/9 which is referred to above. For the reasons set out earlier in this relevant representation, STDC require that this land should be removed from the scope of powers within the DCO,
- 5.3 **Article 13 – Temporary stopping up of streets, public rights of way and access land** – STDC note that the Applicant is seeking to temporarily suspend access to the “*area hatched green on sheets 1 and 2 of the access and rights of way plans*”, as set out in Part 3 to Schedule 6 to the draft Order. This is “*Access land at Coatham beach and sand dunes*” however STDC believes that this footpath will be required to access a nearby lighthouse and should not be stopped up. The Examining Authority should note that Coatham beach is to the north of Teesworks, but it is unclear where the green hatching is on sheets 1 and 2 of the access and rights of way plans. The cross references in the DCO to the access and rights of way plans must be revisited by the Applicant, as STDC and other affected parties do not currently have sufficient details on what the Applicant is seeking to do in respect of this land.
- 5.4 **Article 25 (2) (Compulsory acquisition of rights etc.)** – Although STDC agree that in principle statutory undertakers may need to exercise rights in the draft Order directly, it is unclear from the draft Order which statutory undertakers could receive and enforce rights over STDC’s land. The Applicant should clarify the position by identifying each statutory undertaker it envisages transferring the benefit of article 25.
- 5.5 **Schedule 2 (Requirements)** – In dialogue between STDC and the Applicant over the past 18 months or so, including during statutory consultation, a level of agreement was reached that STDC would be referred to in the wording of the Requirements as a party to be consulted on the information being submitted by the Applicant to RCBC for its approval. Examples of information which STDC expected an approval role over include detailed Construction and Environmental Management Plan (**CEMP**), drainage schemes and piling risk assessments/plans.
- 5.6 Correspondence dated 10 November 2020 from the Applicant to STDC confirmed the Applicant’s agreement that STDC could be named as a consultee in Requirements dealing with

these matters, and the Applicant acknowledged that such an approach has been taken on other DCOs.

5.7 As currently drafted, none of the Requirements refer to STDC and commit to its involvement in the review and approval of information submitted to discharge Requirements in the draft Order. We consider this to undermine any certainty that the Applicant is seeking to give to STDC that the Project will not adversely impact on the delivery of development by STDC on its land. Those Requirements, which we feel should make explicit reference to STDC being consulted and given opportunity to comment on the information submitted ahead of discharge, include (though not necessarily limited to):

- Requirement no. 11: Surface and foul water drainage
- Requirement no. 12: Flood risk mitigation
- Requirement no. 13: Contaminated land and groundwater
- Requirement no. 16: Construction environmental management plan
- Requirement no. 18: Construction traffic management plan
- Requirement no.19 Construction workers travel plan
- Requirement no. 23: Piling and penetrative foundation design
- Requirement no. 24: Waste management on site – construction wastes

Protective provisions

5.8 Protective provisions for the benefit of Teesworks Limited are included in the draft Order. However, they fail to protect the other STDC entity and are not satisfactory in other respects. STDC has supplied the Applicant with amendments to seek to address its concerns, and the matter remains under discussion between the parties. STDC would highlight in particular that it requires the protective provisions to include the following wording, in order to sufficiently protect STDC's own development proposals and address above-mentioned concerns over land acquisition:

Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any interest in land or appropriate, acquire, extinguish or override any easement or other interest of Teesworks Limited (including temporary possession) otherwise than by agreement with Teesworks Limited.

Consultation Report

- 5.9 The Consultation Report, at Table 15.2B sets out a summary of consultation responses and the Applicant's response. At row 31, in response to STDC's representation of 25.01.21, the Applicant has stated:

"The Applicants and STDC have agreed to develop an integrated schedule to ensure the project-specific and STDC's wider demolition and remediation activities are planned efficiently to allow the Proposed Development and various Teesworks developments to co-exist with minimal disruption to each other."

- 5.10 STDC request that this schedule forms a new requirement in Schedule 2 to the draft Order, requiring the Applicant to develop such a schedule prior to commencing construction of the scheme.

Book of Reference

- 5.11 It is unclear to STDC whether all of its Category 3 interests are noted within the Book of Reference. STDC may have a relevant claim under s10 of the Compulsory Acquisition Act 1965 given that it may be injuriously affected by the execution of the Applicant's works, which occur on STDC land and risk infringing STDC rights.
- 5.12 STDC request that the Book of Reference is reviewed to consider STDC's potential Category 3 interests and any discrepancies corrected, prior to the commencement of the examination period.

Statement of Reasons

- 5.13 Paragraph 9.1.18 (a) of the Applicant's Statement of Reasons states "*The existing outfall tunnel (plots 291, 297, 298, 299, 304, 305, 306, 307, 308, 309, 310, 311, 312, 326, 327, 334, 335, 371) is still operational for small discharges. However, the condition of the tunnel for long term use for the Project is unconfirmed by its owner, STDC. If it is possible to re-use the existing outfall tunnel, any maintenance activities are likely to be minor (see below).*"
- 5.14 STDC has carried out surveys it believes are reasonably necessary, however it would be unreasonable to expect STDC to warrant that the tunnel may be used for a third party scheme of this scale. This is a matter for the Applicant to assess in light of the surveys carried out to date.
- 5.15 STDC and the Applicant have discussed the majority of Teesworks plots required for the Project. STDC is pleased that the Applicant has entered into these detailed plot discussions. However, despite the helpful level of engagement on plot requirements, it is noted that the Applicant's Statement of Reasons does not set out a justification for the acquisition of each plot. STDC considers that the DCO application would benefit from a schedule setting out the purpose for which powers are sought, on a plot by plot basis, connecting each plot to a work number. STDC requests that the Examining Authority, if they are minded to agree, require the Applicant to produce such a schedule prior to the start of examination.

- 5.16 Appendix 1 to the Statement of Reasons summarises the status of negotiations between the parties. STDC can confirm that it has been progressing discussions with the Applicant on commercial and technical matters, in detail and on a regular basis. This includes working together to agree a land remediation strategy to support a planning application that STDC has submitted for the remediation of the land required by NZT, and to discuss park and ride and a number of utility matters. Commercial agreements to enable the completion of the lease for the main site and wayleave agreements for utility and access corridors have not been completed and negotiations continue.

Funding Statement

- 5.17 The Guidance requires the Applicant to “*provide as much information as possible about the resource implications of both acquiring the land and implementing the project for which the land is required.*”⁴ It is noted that the Applicant’s Funding Statement does not include a separate estimate for land acquisition costs. STDC requests that this information is added to the Funding Statement.
- 5.18 As set out at paragraph 2.1.7 of the Funding Statement, the parent company and partners will “*share all the costs and liabilities incurred in relation to the Proposed Development*” however “*the details and corporate structure are to be confirmed*”. Further details on how the Applicant’s costs and liabilities are to be funded should be set out in detail prior to the commencement of examination.

⁴ Para 17

6 Environmental and planning/technical concerns

6.1 STDC has the following comments in respect of the DCO technical documents:

Habitats Regulation Assessment

6.2 The Environmental Statement (**ES**) (see, for example, paragraph 5.2.1 of the Non-Technical Summary), confirms that the cumulative impacts of all phases of the scheme have been assessed, including site preparatory works (i.e. demolition of existing structures and site remediation). It is explained in the application documentation that such preparatory works are expected to be completed by STDC. At the current time, there is no agreement between STDC and the Applicant for STDC to carry out such preparatory works. It is, therefore, necessary for the DCO to proceed on the basis that, when made, it permits all site preparatory works with all necessary mitigation identified and imposed.

Environmental Impact Assessment (EIA) Environmental Statement

6.3 There are a number of aspects of the ES that we comment on below:

Assessment of alternatives – Natural Gas Connection Route

6.4 The Indicative Pipeline Routings plan (APP-117) shows two options for the routing of the CO² gathering pipeline (purple dash) as either the above-ground Sembcorp corridor running alongside Dabholme Gut or, alternatively, the below ground option (potentially using a micro-bored tunnel (MBT)) diagonally through the Teesworks area to the PCC Plant. The Natural Gas pipeline is then shown (light green line) only in respect of the second route – beneath the Teesworks site (and would share the MBT if it is constructed for the CO² gathering pipeline, otherwise it would be constructed through an open cut (up to 35m wide)).

6.5 The Natural Gas pipeline is to be 600mm (bore diameter) whilst the CO² gathering pipeline is not dissimilar, at 550mm. The Gas Connection and AGI Plan Sheet 1 (APP-028) confirms the land extents for the Natural Gas connection corridor as being a corridor of at least 200 metres in width across Teesworks' land.

6.6 The document titled "Gas Connection and Pipelines Statement" (APP-073), at Section 3.0 explains that there are two routes / supply systems for the gas connection: 1. a new build "Option 1" involving a new bored tunnel beneath the River Tees and below ground to the PCC through the Teesworks site (with alternatives to use existing or new pipelines between Seal Sands and Navigator Terminals); or 2. a tie-in to the existing Sembcorp pipeline at Bran Sands and a new below ground pipeline north to the PCC.

6.7 It is unclear from the submission as to whether the Applicant considers it necessary to construct both pipelines / connections as it is explained (at paragraph 3.1.3 of APP-073) that "*Subject to commercial agreement(s) with NGG and/or other gas suppliers, natural gas will be supplied via one or more of the Gas Supply systems described...*"

6.8 There is no apparent justification in the DCO documentation for essentially reserving the option of having one CO² connection from two Gas Supply Systems or the necessity of having

connections from both (when the potential of having only one system / connection is being contemplated).

6.9 Moreover, there is an apparent omission in the alternatives being considered for the routing of the Natural Gas Pipeline: that being the option of using the Semcorp over-ground pipe corridor alongside Dabholme Gut and returning north at Bran Sands to the PCC Plant. This corridor is being considered for the CO² gathering pipelines and there is no known rationale for not considering it as an alternative for the Natural Gas pipeline.

6.10 Should the Semcorp pipeline corridor alongside Dabholme Gut be used for both the CO² gathering pipeline and the natural gas pipeline (or, in respect of the later, a connection is created to the existing Semcorp pipeline at Bran Sands), then the need for the circa 200m wide corridor through the Teesworks site falls away and there would be no justification for its inclusion in the Order limits on grounds of necessity.

Assessment of alternatives – construction traffic access

6.11 At ES Figure 16-2 – HGV Routes to and from the Site (APP-173), HGV routes are shown for construction traffic entering / exiting the Teesworks site. The Framework CEMP (APP-246) at paragraph 5.4.2 explains that *“construction HGVs associated with the construction of the PCC Site (including containerised deliveries arriving via Teesport) will arrive and depart the Site via the entrance on the A1053 Tees Dock Road and the internal site road network...the same access will be used for construction traffic for the HP Compressor Station, CO₂ Export Pipeline and Water Connections.”*

6.12 There is no rationale for limiting HGV construction traffic to access / egress Teesworks via Tees Dock Road. As explained above, the use of Tees Dock Road relies upon the opening of a private (STDC-owned) gated access across Teesworks land which STDC does not support. There is no assessment of alternative access opportunities including an obvious alternative to Tees Dock Road: that being the use of the northern-most point of access into Teesworks at the main roundabout access from the Trunk Road (the ‘Steel House roundabout access’).

6.13 It is understood, following review of the submitted relevant Transport Assessment documents by the Applicant, that construction worker traffic (from private vehicles) will enter the site via Redcar Gatehouse. Redcar Gatehouse is one of the primary entrances into the Teesworks area and entry is controlled with a barrier. Over the coming years, its usage will increase as development across Teesworks is brought forward. It is crucial, therefore, that the construction worker traffic generated by the NZT scheme does not have a negative impact on the operation of this controlled access point.

6.14 Chapter 16 (Traffic and Transportation) of the ES identifies and models the number of construction worker vehicles generated at times throughout the day. It proposes that up to 315 vehicles will arrive during the peak morning hour (6.00-7.00am), equating to over 5 vehicles per minute, and in the peak evening hour (6.00-7.00pm) 262 worker vehicles will leave the site, which is approximately over 4 vehicles per minute. This is a significant number of worker vehicles using a Teesworks primary access, and in combination with the proposed park and ride buses and other vehicles accessing / egressing Teesworks, it appears likely that this will

have a significant impact on the operation of Redcar Gatehouse, which could and should be avoided. Therefore, STDC considers that alternative options should be explored, to ensure a more efficient and sustainable access for construction workers to arrive and enter the Teesworks site by bus, rather than passing through Redcar Gatehouse and then transferring to buses, which themselves would then pass back through the gatehouse road network.

- 6.15 The number of vehicles referred to above also appears low. STDC requires Chapter 16 to the ES to be reviewed and updated to ensure that the correct number of vehicle movements is reflected. This should be progressed in conjunction with the work being undertaken jointly with the Applicant on a Park and Ride solution.

Stockpiling of tunnel arisings

- 6.16 Chapter 5 of the ES: "Construction Programme and Management" (APP-087), at paragraphs 5.3.71 – 5.3.81, outlines the potential requirements for the management of spoil resulting from the construction of tunnels and bores associated with the various pipelines. It is estimated that almost 50,000m³ of spoil could be created. The stated intention is to stockpile the material on Teesworks within the site boundary for either re-use on site or to be removed off-site by HGV for use elsewhere within Teesworks or beyond the Teesworks land. There is an unquantified assumption that "*the bulk*" of spoil generated will be used within the site, but also an allowance for "*progressive off-site removal*", with an assumption made in the Transportation Assessment that up 10,000m³ of spoil could be removed from the site per month (onto the public highway beyond Teesworks).
- 6.17 STDC note that the original DCO submission, dated 21 May 2021, resulted in a range of issues being raised by the Planning Inspectorate, including a lack of explanation as to the estimated quantities of spoil likely to be produced by the tunnelling works required for the Proposed Development and related storage and disposal arrangements. The Applicant sought to address this in Chapter 5 of the ES, Construction Programme and Management, however STDC consider that further detail is required concerning:
- a) the environmental impacts of such stockpiling; and
 - b) whether stockpiling would stymie or prevent STDC delivering economic development on land, including land within the Order limits, for industrial uses benefitting from the Freeport status of the area.
- 6.18 STDC will not accept such uncertainty over the use of its land. The application should, at minimum include plans of where the arising material would be stored, in what quantities, to what heights/extents and for what maximum lengths of time. Flowing from this information, we would expect the DCO Requirements (drafted as nos. 16 and 18) to go further than their current drafting, to provide a soil management plan, and to instead obligate the Applicant to remove a certain quantum of spoil from the site, or demonstrate its beneficial use on site, within a specified timeframe.

Planning Assessment

6.19 In its letter of 18 September 2020 to the Applicant's statutory consultation, RCBC as Local Planning Authority, raised concerns with the DCO proposals, which in summary related to:

- the extent of land required for the connection corridors and infrastructure to serve the PCC and the land to be secured through the DCO process;
- the land take for the development and issues in respect of the proper planning of the area, potential sterilisation of development land and the delivery of the STDC Masterplan; and
- that the issues of land take and the boundaries of the development are required to be resolved otherwise *"there is a risk of policy conflict with the adopted local plan and SPD."*

6.20 RCBC went on to explain that its Supplementary Planning Document (**SPD**) for the area includes a number of Development Principles, including Development Principle STDC1 which, inter alia, sets out the aim of resisting piecemeal development of the South Tees area where it would conflict with the comprehensive redevelopment of the area. RCBC called for the Project to be sufficiently defined to remove any risk of piecemeal development or the unnecessary sterilisation of development land. RCBC set its concerns in the context of Development Principle STDC2 which states:

"The Council, in partnership with the STDC, promote a comprehensive approach to development within the South Tees Area. Development that has the potential to stymie or prevent further phases of development, or to reduce the market demand for land to be taken up, and/or to adversely affect the ability to provide infrastructure essential to the delivery of later phases of development / occupation, will be resisted."

6.21 Whilst the boundary and the Order limits of the Project have been reduced since the Section 42 consultation in mid-2020, the Order limits remain unnecessarily and unjustifiably extensive and incorporates STDC land for which STDC has advanced planning applications for industrial development.

6.22 The Planning Statement prepared on behalf of the Applicant acknowledges that the South Tees Area SPD is a material planning consideration and represents the formal planning policy interpretation of the Teesworks Master Plan. The Planning Statement states that the scheme, as proposed in the draft Order, is consistent with Development Principles STDC1, 6 and 10 of the SPD because it involves the provision of a nationally significant electricity generating station that would support decarbonisation of power generation. Whilst this benefit is not disputed, the Planning Statement does not address the concerns expressed in the RCBC's letter of representation (concerns that are shared by STDC) that the Project is at risk of conflict with the adopted Local Plan and SPD because the land take could potentially result in the sterilisation of land and conflict with objectives in respect of comprehensive regeneration.

7 Conclusion

- 7.1 For the reasons set out above, STDC has serious concerns about the Applicant's proposals. STDC formally **objects** to the proposals in their current form in order to protect its own development proposals, despite STDC retaining in-principle support for the Project.
- 7.2 STDC reserve the right to submit further representations once the examination period commences.

Enc:

- Appendix A – Map of Teesworks

South Tees Development Corporation Area

