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Your Ref:

Our Ref: EN010103

Date: 6 May 2022

Dear Sir / Madam

The Planning Act 2008 – Section 89

Application by Net Zero Teesside Power Limited and Net Zero North Sea Storage Limited for an Order Granting Development Consent for the Net Zero Teesside Project

Request for Proposed Changes to the Net Zero Teesside Development Consent Order Application

We are writing to inform you of the Procedural Decision Made by the Examining Authority (ExA) following the change request made by the Applicants dated 29 April 2022 (Examination Library References [AS-047 to AS-195]). Table 1 of the cover letter [AS-047] provides a Summary of Proposed Changes. Thirteen changes are proposed, and all have been the subject of the Applicants' non-statutory consultation exercise.

This formal change request follows on from the Applicants' letter of 18 February 2022 [AS-043] and accompanying Notification Report [AS-044] which identified the nature of changes proposed and advised of the Applicants' intention to request that the changes described in the Notification Report be accepted as changes to the DCO application. On 24 February 2022 we responded [PD-008] providing guidance on the Applicants' intended approach to the submission of the proposed changes and the proposed consultation, drawing the Applicants' attention to the requirements of Advice Note 16: 'How to request a change which may be material'.

The ExA has reviewed the information provided and assessed the Applicants' request in line with paragraphs 109 to 115 of the DCLG Guidance 'Planning Act 2008: Examination of Applications for Development Consent'¹ and the Planning Inspectorate's Advice Note 16² and has reached the following conclusions.

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/418015/examinations_guidance-final_for_publication.pdf

²<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/07/Advice-note16.pdf>

The ExA agrees with the Applicants that none of the proposed changes is so material that it constitutes a materially different project. The proposed changes are not considered, individually or cumulatively, to lead to the Project being different in nature or substance to that which was originally applied for in July 2021.

The ExA notes that the Applicants describe the proposed changes as being aimed at reducing optionality, land take and complexity. Consequently, they are described as reducing the potential effects of the Project on Interested Parties and other Affected Persons. Most of the proposed changes do not result in additional land being required although Change 10 requires a minor increase in the Order Limits for Work No. 9 Temporary Construction and Laydown Area. While the consent of the freeholder of the new Plat 67a has been obtained, the Applicants have confirmed that the consent of other parties with an interest in the land has not been obtained.

The consultee responses summarised in Table 7.1 of the Consultation Statement [AS-048] and the ES Addendum [AS-049 to AS-132] did not identify any change in or new significant effects for any topics assessed in the ES. The Applicants therefore concluded that the proposed changes would not result in any new or materially different significant effects on the environment. We have also considered the Applicants' Habitats Regulations Assessment report and conclude that the proposed changes would make no difference to the outcome of a Habitats Regulations Assessment. On this basis, with the exception of Change 10, the proposed changes when considered individually and collectively can be deemed to be non-material and can be accepted into the Examination.

However, on the basis that Change 10 requires additional land beyond the existing Order limits an extension to the Order limits would be required. Therefore, The Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (the CA Regulations) will apply for the new plot of land. Given that the amendment of the Order limits will require an extension to the Order land within the scope of compulsory acquisition, this change goes beyond what can be considered non-material in the facts and circumstances of this application.

The ExA is satisfied that the information provided as part of the change request is of a satisfactory standard for examination and that there is sufficient time within the Examination for the proposed changes to be properly and fairly examined including the opportunity for written submissions and any oral representations to be made at any Hearings that are required, along with the procedural requirements of the CA Regulations.

Having accepted the proposed changes into the Examination, and on the basis that the consent of all those with an interest in the land has not been obtained, the Applicants will need to submit the documents required by Regulation 5 of the CA Regulations and to notify the Affected Persons in accordance with the requirements of Regulations 7 and 8.

Given the timing of the formal change request the ExA considers that the Applicants and other attendees at the Preliminary Meeting should have an opportunity to comment on how the proposed changes should be examined with reference to the draft examination timetable issued with the Rule 6 letter.

Yours faithfully

Kevin Gleeson

Lead Member of the Examining Authority

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