

Net Zero Teesside Project

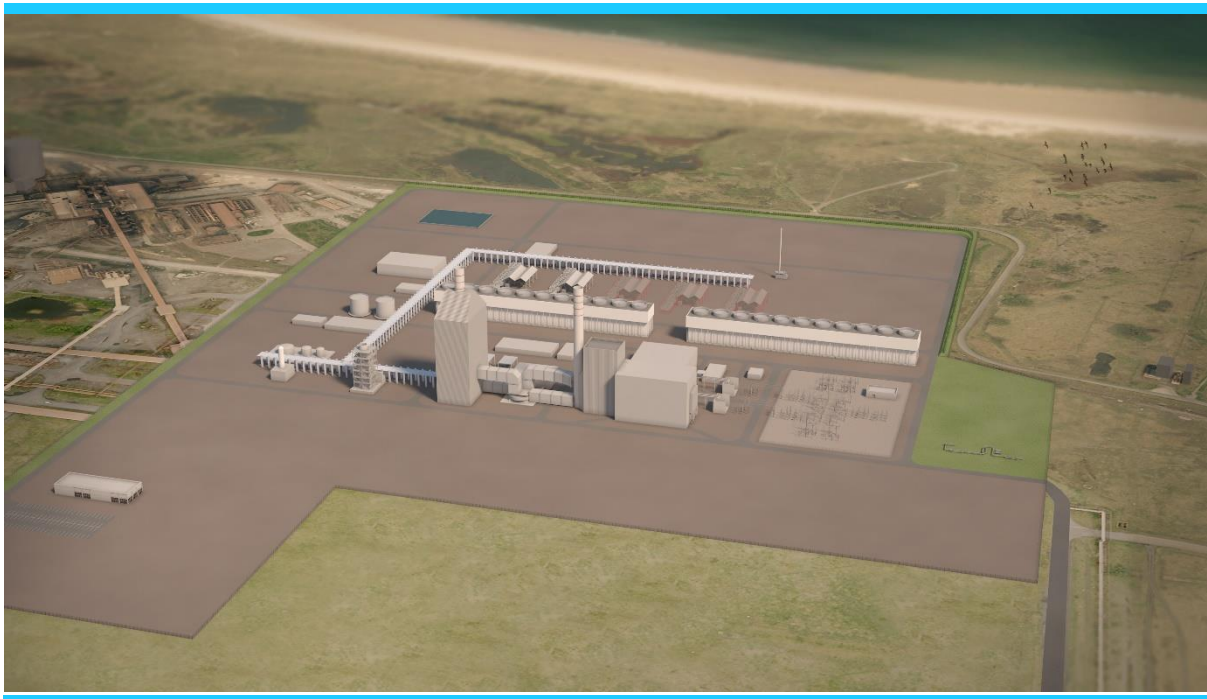
Planning Inspectorate Reference: EN010103

Land at and in the vicinity of the former Redcar Steel Works site, Redcar and in Stockton-on-Tees, Teesside

The Net Zero Teesside Order

Document Reference: 9.4 – Written Summary of Oral Submission for Compulsory Acquisition Hearing 1 (CAH1)

The Planning Act 2008



Applicants: Net Zero Teesside Power Limited (NZN Power Ltd) & Net Zero North Sea Storage Limited (NZNS Storage Ltd)

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CONTENTS

1.0	Introduction.....	2
2.0	Written Summary of Oral Submission – Compulsory Acquisition Hearing 1.....	5

TABLES

Table 2.1: Summary of Oral Submission CAH1	5
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APPENDICES

Appendix 1: Eggborough DCO - Crown Estate's Response to the SoS's request for further comments (on 01 Aug 2018)

Appendix 2: Latest Audited Accounts – BP Exploration Operating Company Limited

Appendix 3: Latest Audited Accounts – Equinor New Energy Limited

Appendix 4: Latest Audited Accounts – Shell U.K. Limited

Appendix 5: Latest Audited Accounts – Total Gas & Power Chartering Limited

Appendix 6: Latest Audited Accounts – National Grid Carbon Limited

1.0 INTRODUCTION

1.1 Overview

1.1.1 This Written Summary of Oral Submission for Compulsory Acquisition Hearing 1 ('CAH1') (Document Ref. 9.4) has been prepared on behalf of Net Zero Teesside Power Limited and Net Zero North Sea Storage Limited (the 'Applicants'). It relates to the application (the 'Application') for a Development Consent Order (a 'DCO'), that has been submitted to the Secretary of State (the 'SoS') for Business, Energy and Industrial Strategy ('BEIS'), under Section 37 of 'The Planning Act 2008' (the 'PA 2008') for the Net Zero Teesside Project (the 'Proposed Development').

1.1.2 The Application was submitted to the SoS on 19 July 2021 and was accepted for Examination on 16 August 2021. A change request made by the Applicants in respect of the Application was accepted into the Examination by the Examining Authority on 6 May 2022.

1.2 Description of the Proposed Development

1.2.1 The Proposed Development will work by capturing CO₂ from a new the gas-fired power station in addition to a cluster of local industries on Teesside and transporting it via a CO₂ transport pipeline to the Endurance saline aquifer under the North Sea. The Proposed Development will initially capture and transport up to 4Mt of CO₂ per annum, although the CO₂ transport pipeline has the capacity to accommodate up to 10Mt of CO₂ per annum thereby allowing for future expansion.

1.2.2 The Proposed Development comprises the following elements:

- **Work Number ('Work No.') 1** – a Combined Cycle Gas Turbine electricity generating station with an electrical output of up to 860 megawatts and post-combustion carbon capture plant (the '**Low Carbon Electricity Generating Station**');
- **Work No. 2** – a natural gas supply connection and Above Ground Installations ('AGIs') (the '**Gas Connection Corridor**');
- **Work No. 3** – an electricity grid connection (the '**Electrical Connection**');
- **Work No. 4** – water supply connections (the '**Water Supply Connection Corridor**');
- **Work No. 5** – waste water disposal connections (the '**Water Discharge Connection Corridor**');
- **Work No. 6** – a CO₂ gathering network (including connections under the tidal River Tees) to collect and transport the captured CO₂ from industrial emitters (the industrial emitters using the gathering network will be responsible for consenting their own carbon capture plant and connections to the gathering network) (the '**CO₂ Gathering Network Corridor**');
- **Work No. 7** – a high-pressure CO₂ compressor station to receive and compress the captured CO₂ from the Low Carbon Electricity Generating Station and the CO₂

Gathering Network before it is transported offshore (the '**HP Compressor Station**');

- **Work No. 8** – a dense phase CO₂ export pipeline for the onward transport of the captured and compressed CO₂ to the Endurance saline aquifer under the North Sea (the '**CO₂ Export Pipeline**');
- **Work No. 9** – temporary construction and laydown areas, including contractor compounds, construction staff welfare and vehicle parking for use during the construction phase of the Proposed Development (the '**Laydown Areas**'); and
- **Work No. 10** – access and highway improvement works (the '**Access and Highway Works**').

1.2.3 The electricity generating station, its post-combustion carbon capture plant and the CO₂ compressor station will be located on part of the South Tees Development Corporation ('STDC') Teesworks area (on part of the former Redcar Steel Works Site). The CO₂ export pipeline will also start in this location before heading offshore. The generating station connections and the CO₂ gathering network will require corridors of land within the administrative areas of both Redcar and Cleveland and Stockton-on-Tees Borough Councils, including crossings beneath the River Tees.

1.3 The Purpose and Structure of this Document

1.3.1 The purpose of this document is to provide a Written Summary of Oral Submission for Compulsory Acquisition Hearing 1 ('CAH1'), held at 2pm on 11 May 2022.

1.3.2 This document is structured as follows:

- Section 2 – Written Summary of Oral Submission for CAH1.

2.0 WRITTEN SUMMARY OF ORAL SUBMISSION – COMPULSORY ACQUISITION HEARING 1

2.1 Written Summary of Oral Submission – CAH1

2.1.1 The Applicant’s summary of CAH1 is provided in **Table 2.1** below:

Table 2.1: Summary of Oral Submission CAH1

No.	Agenda	Summary of Oral Submission
1.	<p>Item 1</p> <p>Welcome, introductions and arrangements for the Hearing</p>	N/A
2.	<p>Item 2</p> <p>Forthcoming Change Request</p> <ul style="list-style-type: none"> • The ExA will ask the Applicants to provide an overview of the proposed change request, specifically the amendments which affect CA and reasons for them 	<p><i>[Note: the agenda for CAH1 listed this as Item 7. During CAH1 the Examining Authority (“ExA”) decided to hear it as Item 2]</i></p> <p>Hereward Philpott QC (“HPQC”), appearing for the applicants, provided the following overview of the implications of the proposed changes for the compulsory acquisition and temporary possession issues in this examination.</p> <p>There are three main areas of change affecting compulsory acquisition and temporary possession which cover most of the 13 individual changes:</p> <ul style="list-style-type: none"> • the Gas Connection Route for Work No. 2A has been selected; • the CO2 Gathering Network route from the north of the River Tees and across the Tees forming part of Work no. 6 to the Power Capture and Compression (“PCC”) Site has been reduced in land area, including removing the ‘long tunnel’ option (Option 1); and

		<ul style="list-style-type: none">• updates have been made to land parcels across the Order Limits due to further pre-Front End Engineering Design (“FEED”) construction assessments and landowner discussions. <p>These changes are aimed at reducing optionality, land take and complexity. Their overall effect is to reduce the order limits, from 462ha to 305ha. This is a significant reduction in the order limits, and therefore on the impacts on the interests of Affected Persons.</p> <p>In addition, the changes reduce the powers originally sought over significant areas within the order limits from compulsory acquisition of rights to powers of temporary possession.</p> <p>There is only one change (10) which results in an increase in the order limits. That increase is minor. The implications of the other 12 changes were summarised as follows.</p> <p><u>Changes 1-6, 9 and 13</u></p> <p>All of these changes result in a reduction in the order limits and associated powers sought. These changes follow the reduction in optionality and landowner feedback</p> <p><u>Changes 7-8 and 11-12</u></p> <p>Changes 7-8 result from changes in optionality, and changes 11-12 result from reclassification of work numbers. There are no increases in the areas over which powers of compulsory acquisition and temporary possession are sought, and some reduction in the order limits. Where rights are sought, there is no increase in those rights. Some land in respect of which the compulsory acquisition of rights was originally proposed (shown blue on the Land Plans [AS-146]) is now subject only to proposals for temporary possession (shown yellow on the Land Plans). The proposed degree of interference in the rights of Affected Persons has therefore been reduced. Where work numbers are changed, the rights sought do not increase.</p>
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		<p><u>Overall implications</u></p> <p>The main implication of the changes so far as compulsory acquisition and temporary possession is concerned is to strengthen the case for concluding that the extent of land over which powers are sought, and the extent of the powers sought to be acquired in each case, are proportionate and no more than is reasonably required to deliver the Project.</p> <p>In addition, the changes help to address a number of concerns raised by affected persons, as reflected in the generally positive response to consultation in respect of the changes.</p> <p>Save in those respects, however, the main elements of the case for granting the powers sought are unaffected.</p> <p>That is reflected in the relatively limited changes to the original text in the revised Statement of Reasons [AS-141]. The updates reflect the reductions in optionality and other changes and make other minor updates where appropriate. The text setting out the substance of the case for compulsory acquisition and temporary possession is otherwise unchanged.</p> <p>In respect of Change 10, the ExA asks the Applicant to clarify where the change is located and the reason for it in general terms. Jack Bottomley("JB") for the Applicant confirms that Change 10 relates to a small area of land associated with work number 9, a temporary compound located strategically close to the Sembcorp pipeline corridor, and required in relation to the installation of the CO2 gathering network. The original Order limits omitted a small area of land needed to link the compound to the highway.</p>
3.	<p>Item 3</p> <p>Section 122 and 123 of the Planning Act 2008 (PA2008)</p>	<p>HPQC provided an overview of the Applicant’s case for the grant of powers of compulsory acquisition and temporary possession pursuant to sections 122 and 123 of the Planning Act 2008 (“PA 2008”). The case is set out in more detail in the Statement of Reasons [AS-141] and the other documents to which reference is made below.</p>

<ul style="list-style-type: none"> • The Applicants are asked to briefly outline the case for CA and temporary possession (TP) and whether they meet the tests of the PA2008 including whether all reasonable alternatives have been considered and whether the rights to be required are reasonably necessary and proportionate; and • The Applicants are asked to provide a brief update on the progress of negotiations and deadlines for their conclusions. 	<p><u>Section 122</u></p> <p>The conditions set by subsections (2) and (3) are both met in this case.</p> <p><u>Subsection (2)</u></p> <p>Subsection (2) is concerned with the reasons why the land is required. In this case no replacement land is needed, and so all of the land within the order limits is either required for development to which the development consent relates, or is required to facilitate or is incidental to that development.</p> <p>The Statement of Reasons contains an explanation of the need for the compulsory acquisition of land and rights and powers of temporary possession in section 6.</p> <p>The explanation is arranged under four headings, corresponding to the different powers sought in each case, i.e.: ‘All interests (including freehold)’; ‘New rights’; ‘Extinguishment (etc.) of rights’; and ‘Temporary use’ – although the latter is a power of temporary occupation and does not involve compulsory acquisition of land or rights in land.</p> <p>In each case where Freehold acquisition is sought, the relevant plot numbers are linked in section 6 of the Statement of Reasons to specific works in the draft Development Consent Order (“dDCO”). When read together with Schedules 7 and 9 of the dDCO [AS-136], the Book of Reference [AS-139] and the ‘Guide to the Land Plans’ document [AS-143] it is possible to see why each piece of land or new right (or extinguishment of rights) in that land is required and to see that in each case the purpose of acquisition meets the condition in subsection (2) because it is either for development to which the application relates (e.g. it is the location of some new infrastructure), or to facilitate that development (e.g. it is required to construct the infrastructure), or the purpose is incidental to that development (e.g. it is required to access and maintain that infrastructure).</p>
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		<p>Appendix 1 to the Statement of Reasons identifies all plots subject to Compulsory Acquisition or Temporary Possession, and the reasons why the land is required for or incidental to the proposed development.</p> <p>So far as the Applicant is aware no Interested Party has suggested in its Relevant Representation that the purposes for which the land is sought to be acquired fall outwith section 122(2).</p> <p><u>Subsection (3)</u> Subsection (3) requires the Secretary of State to be satisfied that there is a compelling case in the public interest for the land to be acquired compulsorily.</p> <p>The compelling case test effectively mirrors the requirements of the Human Rights Act 1998, and the need to show that any proposed interference with article 1 to the first protocol and (where relevant) article 8 is for a legitimate purpose, lawful and proportionate.</p> <p>The Statement of Reasons sets out the compelling case at sections 7 (Compelling Case), 8 (Policy Support) and 11 (Human Rights), although given the nature of the test it is also relevant to consider what is said in section 6 (Need for the Compulsory Acquisition of land and rights), which shows that:</p> <ul style="list-style-type: none">• the powers are sought for a legitimate purpose;• efforts have been and continue to be made to acquire the land by negotiation;• absent powers of compulsion the order land may not be assembled in time to enable the underlying public interest objectives to be acquired;• there is no reasonable alternative to the proposed acquisition in order for the Project to proceed;• the site selected for the project and the land needed to implement it, are suitable having regard to potential alternatives – the applicants have undertaken a clear and appropriate process to identify the site and the most appropriate connection corridors; and
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		<ul style="list-style-type: none">• the Applicants have the ability to procure the financial resources required for the Project, including costs associated with acquisition of land. <p>Against that background, section 7 of the Statement of Reasons summarises the substantial public interest benefits that would be realised by granting the powers that are sought, and thereby enabling the Project to be delivered. These are set out in further detail in the Project Need Statement [AS-015] and the Planning Statement [APP-070]. Section 8 of the Statement of Reasons summarises the policy support for the Project and section 11 addresses the associated interference with the human rights of those affected. Together those documents establish the following points:</p> <ul style="list-style-type: none">• the Project meets an established urgent need for new low carbon energy infrastructure and for the development of carbon capture and storage to address the carbon emissions of Teesside’s industrial emitters;• that need is clear and there is a compelling public interest case for meeting it;• both main elements of the Project will play an important part in helping the UK to meet its net zero targets;• the Project will deliver important economic benefits for Teesside and the UK more generally;• the Project is in accordance with relevant policy within the National Policy Statements;• the adverse environmental effects of the proposed development have been minimised and/or mitigated so that they do not give rise to conflict with policy, are acceptable, and are clearly outweighed by the substantial benefits;• the impacts of the proposed compulsory powers on those whose land is affected would be adequately offset by the payment of compensation and, where relevant, the measures secured through the proposed protective provisions; and• those adverse effects are clearly and decisively outweighed by the public benefits the Project would deliver. <p>Subsequent to the publication of the Statement of Reasons, further developments have strengthened the compelling case.</p>
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		<p>The need case and the associated public benefits of meeting that need have been further underlined by the subsequent publication of the Government policy documents referred to in ISH1, namely:</p> <ul style="list-style-type: none">• draft NPS EN-1;• The Net Zero Strategy: Build Back Greener (October 2021); and• British Energy Security Strategy (April 2022). <p>The relevant parts of those documents will be identified and addressed in the updated Planning Statement in due course. It is not currently thought to be necessary to update the Project Need Statement as well, because it would remain accurate as drafted and could be read together with the updated Planning Statement, but the Applicants indicated that they would be content to do that in due course if the ExA take a different view.</p> <p>The order limits have been substantially reduced as a result of the changes made to the application. The extent of the powers sought over significant areas within the order limits has also been reduced from the compulsory acquisition of permanent rights to powers of temporary possession. The overall effect is a corresponding significant reduction in the extent of proposed interference with the interests of affected persons.</p> <p>In a number of instances the reduction in the order limits addresses specific concerns raised by affected persons in their Relevant Representations.</p> <p>As explained by reference to Agenda Item 7, the reduction in the extent of the order limits and the shift from acquisition of permanent rights to temporary possession also helps to demonstrate that the area of land proposed to be acquired is no more than is necessary; and that the degree of interference involved in each case is proportionate.</p>
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		<p><u>Section 123</u></p> <p>Section 123 provides that a DCO may only include compulsory acquisition of land if the Secretary of State is satisfied that one of the conditions in subsections (2) to (4) is met.</p> <p>In this case subsections (2) and (4) are engaged, and both conditions can be satisfied.</p> <p>Subsection (2) is engaged in respect of the land identified in the Book of Reference submitted with the application [APP-007]. So far as that land is concerned, the application for the DCO included a request for compulsory acquisition of the land to be authorised and thus the condition in subsection (2) can be satisfied.</p> <p>Subsection (4) is engaged in relation to the small amount of ‘additional land’ which has been included within the order limits as a result of the change application. The prescribed procedure will be followed and thus the condition in subsection (4) can be satisfied.</p> <p>In response to a query from the ExA, the Applicant confirms they will review the Book of Reference [AS-139] for:</p> <ul style="list-style-type: none">• Any discrepancies between the clean [AS-139] and tracked [AS-140] versions.• <i>Post-hearing note:</i> The Applicants have compared the clean and tracked version of the BoR and, in addition to paragraph 1.8 as flagged by the Examining Authority, have identified a small number of other discrepancies between them. The Applicants will submit an updated version of the BoR at Deadline 2 and will identify the updates.• Confirmation that the plots with unknown and unregistered owners and rights is a complete list, and to confirm in writing what further steps the Applicant is taking to identify any unknown rights during the Examination.• <i>Post-hearing note:</i> During the land referencing stage site notices were erected at or close to locations which were unregistered land, as well as specific site notices at section 42 stage (two
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		<p>separate occasions) and section 56 stage. Land interest questionnaires were issued to all identified parties and provided the opportunity for them to provide information on any land they had an interest in and which was not registered. The plots which are listed as unregistered or with unknown interests are confirmed to be complete, on the basis of the Applicants' diligent inquiry undertaken at the pre-application stage. The Applicants are not currently undertaking specific actions to identify owners of unknown or unregistered land, but would provide an update to the Examining Authority if information was provided to them (for instance by a land owner who may hold deeds which prove their ownership). The Applicants will repeat the land referencing checks at appropriate points in the future, including prior to serving notice pursuant to section 134 Planning Act 2008 and prior to implementing the DCO.</p> <p>A brief update on the progress of negotiations and deadlines for their conclusions:</p> <p>HPQC briefly addressed a preliminary point of approach before inviting Mr Bilal Ahmad ("BA") to provide an update.</p> <p>The agenda refers to 'deadlines' for the conclusion of negotiations for the acquisition of the land and interests in land required. The Applicants are seeking to agree Heads of Terms with as many landowners as possible through negotiation, and have well in mind the benefits for all parties associated with concluding those negotiations before the end of the examination.</p> <p>However, there is not a strict 'deadline' in the sense that negotiations would or should come to an end once the examination is complete. The Applicants will continue to seek to acquire the interests they need through negotiation after the close of the examination and will only use any compulsory powers granted where those ongoing efforts are not successful.</p> <p>BA provides a general overview of the status of negotiations with landowners, explaining that there are 17 landowners across the Order Limits, all of whom are engaged. There are 5 landowners with whom Heads of Terms have been agreed. They represent 40% of the CO₂ Gathering Network, along</p>
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		<p>with elements of the pipeline and temporary construction compounds. Negotiations are ongoing for the other landowners, which are anticipated for completion within the duration of the Examination period.</p> <p>Negotiations with STDC/Teesworks on the option and lease agreement are at a mature stage.</p> <p>Negotiations with Network Rail have passed the clearance process and solicitors have been instructed on progressing the standard Network Rail framework agreement.</p> <p>In respect of the Crown Estate, commercial terms have been agreed and work is ongoing to finalise heads of terms.</p> <p>Article 25 of the dDCO</p> <p>The ExA asked for written submissions and any precedents for the flexibility provided by Article 25(4) of the dDCO (compulsory acquisition of rights), permitting the acquisition of rights over land shown coloured pink on the land plans. These written submissions are as follows.</p> <p>At this stage of the project the Applicants have, as required, sought powers of compulsory acquisition and temporary possession of the areas of land required to ensure that the Proposed Development can be constructed, operated and maintained. Contractors will be appointed by the Applicants and the detailed design will be progressed by the Applicants and their selected contractors prior to construction works commencing.</p> <p>The approach of allowing the undertaker to acquire rights instead of the freehold interest in parts of the Order land is not novel, and as explained at paragraph 3.6.7-8 of the Explanatory Memorandum [AS-137] enables the undertaker to potentially acquire a lesser interest in land (new rights) rather than the freehold interest, where that is possible once that detailed design has established the exact areas of land and interests required. This is a proportionate approach, potentially allowing the</p>
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		<p>undertaker to reduce the impact on those with an interest in the land when the project comes to be implemented. Were the approach not included in the DCO then the undertaker would have no choice – in relation to land where compulsory acquisition powers need to be relied on – but to acquire the freehold interest in relevant areas of land.</p> <p>A similar approach has been adopted in previous DCOs, such as the A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016, in which article 23(1) allows the undertake to acquire rights and impose restrictive covenants over the Order land (as a whole, and therefore including areas identified on the land plans for freehold acquisition), and which is only constrained by article 23(2) which limits the undertaker’s powers to acquire interests in new rights land (so that only new rights can be acquired, not the freehold interest). A similar formulation was adopted in the Immingham Open Cycle Gas Turbine Order 2020, at article 21. Whilst the drafting mechanism is different to that in Article 25 of the Applicants’ Draft Order, the approach and the result is the same.</p>
<p>4.</p>	<p>Item 4</p> <p>Crown Land – Section 135 of the PA2008</p> <ul style="list-style-type: none"> • The Applicants are asked to confirm whether all Crown land has been identified in Part 4 of the Book of Reference (BoR) and on the Crown land plans; and • Whether the dDCO would effectively prevent CA of any interest held by or on behalf 	<p>[Note: At CAH1 the ExA indicated that it did not consider it necessary to hear oral submissions from the Applicants or other parties on Agenda Item 4 (Crown Land – Section 135 of the Planning Act 2008 (“PA 2008”)) and that instead any such submissions should be provided to the ExA in writing.]</p> <p>The Applicants’ submissions in respect of the two issues raised in the Agenda under Item 3 are set out below.</p> <p>Confirm whether all Crown land has been identified in Part 4 of the Book of Reference [AS-139] and on the Crown Land Plans [AS-147]</p> <p>The Applicants consider that all Crown Land has been identified in Part 4 of the Book of Reference and the Crown Land Plans.</p> <p>The information on which the Book of Reference and Crown Land Plans are based was public sources (the Land Registry) and that supplied to the Applicants by the Crown Estate in August 2020 in response to a request for information made as part of the land referencing exercise.</p>

	<p>of the Crown with particular reference to Article 43.</p>	<p>Following the publication of the Agenda for CAH1 the Applicants have contacted the Crown Estate requesting confirmation that in their view all Crown Land has been identified in those documents. A response is awaited. As and when the Applicants receive a response an update will be provided to the ExA.</p> <p>Whether the dDCO would effectively prevent Compulsory Acquisition of any interest held by or on behalf of the Crown with particular reference to Article 43</p> <p>Section 135(1) of the PA 2008 provides that a Development Consent Order (“DCO”) may include provision authorising the compulsory acquisition of an interest in Crown land only if:</p> <ul style="list-style-type: none">a) it is an interest which is for the time being held otherwise than by or on behalf of the Crown, andb) the appropriate Crown authority consents to the acquisition. <p>The draft DCO [AS-136] (“dDCO”) is drafted so as not to grant powers of compulsory acquisition in relation to interests of the Crown in Crown Land:</p> <ul style="list-style-type: none">a) Article 2 of the dDCO defines “Order land” as meaning “the land ... shown edged red on the land plans and described in the book of reference”.b) Articles 22 (Compulsory Acquisition of land) and 25 (Compulsory Acquisition of rights etc.) are drafted so as only to allow the acquisition of “the Order land”. This ties the scope of the Compulsory Acquisition powers to the definition in Article 2, and thus to the description of the relevant land contained in the Book of Reference.c) The Book of Reference for each of the relevant plots includes the following wording at the end of the plot description in which the Crown has an interest “... other than interests of the Crown”.d) The Book of Reference is a certified document (see Schedule 14 to the dDCO).
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		<p>Article 43 of the dDCO is not therefore intended to provide the mechanism for ensuring that there is no Compulsory Acquisition of interests of the Crown in Crown land – that is achieved through the mechanism described above, which appropriately limits the scope of the powers that would be granted.</p> <p>The purpose of Article 43 is twofold:</p> <ul style="list-style-type: none">a) Article 43(1) operates to safeguard the <i>rights of the Crown</i> in relation to the Crown Estate land within the Order limits (under the River Tees and within Tees Bay). It is not concerned with the Compulsory Acquisition of land or interests in land, but rather with safeguarding other rights of the Crown which might otherwise potentially be interfered with.b) Article 43(2) relates to interests in Crown land which are for the time being held otherwise than by or on behalf of the Crown, and excludes those from the scope of paragraph (1) and hence the need to obtain consent. The intention is that the consent of the Crown to the Compulsory Acquisition of those interests will be obtained in advance of the making of the DCO, thus ensuring that the Compulsory Acquisition powers align with section 135(1). <p>The Applicants have asked the Crown Estate for the necessary consent, and a response is awaited. The Applicants do not consider there to be any obvious obstacles to obtaining consent in time. Negotiations with the Crown Estate on the Heads of Terms are going well as noted above. Articles 22(2) (Compulsory Acquisition of land) and 25(11) (Compulsory Acquisition of rights) are expressed to be subject to Article 43.</p> <p>The Explanatory Memorandum [AS-137] identifies precedent for this provision (Article 41 of the Hornsea Three Offshore Windfarm Order 2020).</p>
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		<p>It is a form of words that has numerous precedents, and was suggested as being an appropriate provision for these purposes by the Crown Estate in relation to at least one previous DCO (the Eggborough CCGT Project). The relevant correspondence is at Appendix 1 to this summary. The Applicants have contacted the Crown Estate to ask whether they have any specific comments on Article 43, and a response is awaited.</p> <p>In the circumstances set out above, however, the Applicants do not anticipate that the provision will be controversial.</p>
<p>5.</p>	<p>Item 5</p> <p>Open Space – Section 132 of the PA2008</p> <p>The Applicants are asked to set out the case for CA and TP with regards to Section 132 of the PA2008.</p>	<p>HPQC for the Applicant makes the following submissions:</p> <p>Section 132 of the PA 2008 is engaged here because there are parts of the Order Land that constitute “open space” as defined.</p> <p>The open space land in this case comprises parts of the foreshore and beach at Coatham Sands and parts of Coatham Sand Dunes. The land in question is used for public recreation, as explained in section 9 of the Statement of Reasons [AS-141].</p> <p>Details of the open space land are provided in Table 1 on pages 69-70 of the Statement of Reasons, and it is shown hatched in blue on the Land Plans at sheets 10, 11 and 12 [AS-146] and identified in the Book of Reference [AS-139].</p> <p>The Applicants do not seek powers to acquire the freehold interest in any part of the open space land, but do seek powers to compulsorily acquire new rights over the land.</p> <p>The rights required over this land are discussed in section 9 of the Statement of Reasons [AS-141]. They are needed for the purposes of constructing/refurbishing, maintaining and operating part of the water discharge pipeline (work no. 5) and CO2 export pipeline (work no. 8). It was noted that s.132 is only relevant in respect of Work No. 5B (new water discharge pipeline to the Tees Bay), and not 5A (repair and upgrade of existing water discharge infrastructure). The latter only requires temporary possession powers (Sch. 9). Works Nos. 5A and 5B are alternatives, and only one will ultimately be</p>

		<p>required. A decision on which alternative is to be pursued will be made by the Applicants during the examination.</p> <p>Pursuant to section 132, the grant of those powers of compulsory acquisition will be subject to special parliamentary procedure unless the Secretary of State is satisfied that one of the exceptions in subsections (3) to (5) applies, and this is recorded in the Order.</p> <p>In this case the relevant exception is subsection (3), which applies where the open space land is no less advantageous than it was before (when burdened with the rights under the Order) for the following categories of persons:</p> <ul style="list-style-type: none">• the persons in whom it is vested;• other persons, if any, entitled to rights of common or other rights; and• the public. <p>It is the first and third of those categories which are relevant here. In summary, the subsection (3) exception applies because of the very limited extent to which the open space land would be affected by the relevant development and other activities that the rights would facilitate.</p> <p>The works required to install the relevant apparatus on the open space land are subterranean, using either horizontal directional drilling or another form of trenchless technology. Those works will not involve any physical works taking place on the surface of the open space land such as to have an effect on the access to or use of it.</p> <p>As a result, the physical appearance of the open space land will be unaffected.</p> <p>The use of the open space land will generally be uninterrupted and unaffected by the exercise of the rights proposed to be acquired. The only exception would be brief restrictions on limited areas, typically during the night, during initial testing and pressurisation of the CO₂ export pipeline.</p>
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		<p>This would be a one-off event, and would not affect the land in any permanent way. Any restriction would be brief, and in practical terms would be timed so that no-one was present. Further detail on this point is to be found in the Explanatory Memorandum [AS-137] at paragraphs 3.4.10 to 3.4.14.</p> <p>The process of testing involves taking the pipeline close to operating pressure incrementally, then above operating pressure to test integrity. Pressure would be increased when no members of the public were present, and once testing is complete and the pressure reduced there would be no further restriction.</p> <p>It is also relevant to consider requirement 5 which has a role in managing this issue. It applies to the access land, which is subject to temporary stopping up rights (see the dDCO [AS-136] Schedule 7, Part 3 – access land at Coatham Beach and Sand Dunes). Pursuant to requirement 5 there can be no temporary prevention of access to the access land until a management plan for the relevant land has been submitted to and approved by the relevant planning authority. The Plan has to include the details that are specified in the draft requirement.</p> <p>There would be no permanent effects on public access to the open space land.</p> <p>The preamble to the dDCO includes a statement as to compliance with section 132(3), in order to comply with section 132(2).</p>
6.	<p>Item 6</p> <p>Temporary Possession</p> <ul style="list-style-type: none"> The Applicants are asked to set out the criteria that they used in determining whether 	<p>HPQC explained that Article 31 of the dDCO [AS-136] allows temporary use of land in two ways:</p> <ul style="list-style-type: none"> Land identified in Schedule 9 may only be temporarily possessed (i.e. the land cannot be acquired and no new rights may be acquired in that land), and possession may only be taken for the purposes set out in the schedule for that particular plot. This land is coloured yellow on the Land Plans [AS-146].

	<p>to seek the use of TP rather than CA of land and rights.</p>	<ul style="list-style-type: none"> Any other land within the Order Limits can be taken temporarily where powers of compulsory acquisition have not yet been used. The Statement of Reasons explains how this allows for a staged approach to the exercise of CA powers which results in less land being taken on a permanent basis than might otherwise be the case. <p>The answer to the ExA’s question applies only to the first category, i.e. land where no compulsory acquisition of land or rights is proposed.</p> <p>Land has been included within the scope of the temporary possession powers only where the Applicants have determined that they do not require any interest in the land on a permanent basis (see the Statement of Reasons [AS-141] at paragraph 6.1.9).</p> <p>The taking of a power of temporary possession involves a lesser interference than the permanent acquisition of land or rights, and is therefore inherently more proportionate in those instances where it is adequate to achieve the intended objective.</p> <p>In response to a question from the ExA, Jack Bottomley (“JB”) for the Applicant confirms that timeframes for the works seek 12 months access to land post-final commissioning. This timeframe is common across similar DCOs. JB also confirms that the extent of land over which the rights are sought has recently been assessed. The Proposed Development is at an early stage of Front End Engineering and Design and so has not yet reached the level of definition where the Applicants can commit to further reductions in land take.</p>
7.	<p>Item 7</p> <p>Protective Provisions – Section 127 of the PA2008 with particular reference to Article 41 and Schedule 12 of the dDCO</p>	<p>HPQC confirms that four additional protective provisions are currently being drafted, for:</p> <ul style="list-style-type: none"> Ineos UK SNS Limited Teesside Offshore Wind Farm Limited Low Carbon Limited Huntsman Polyurethanes UK Limited

	<ul style="list-style-type: none"> The Applicants are asked to provide a brief update on the progress of Protective Provisions in the light of the RR submissions by Aps 	<p>Bilal Ahmed (“BA”) for the Applicant, in response to a question from the ExA, confirms that they have received comments from a number of statutory undertakers and other parties who are the subject of protective provisions, which are being reviewed in detail. As with the land negotiations, these are at varying stages of progress and subject to negotiations.</p>
<p>8.</p>	<p>Item 8</p> <p>Funding</p>	<p>In response to a question from the ExA, BA confirms that in relation to the Funding Statement the position as previously set out in the submitted document [APP-009] remains up to date and correct, including the project cost.</p> <p>The only update to make is the make-up of the Applicants:</p> <ul style="list-style-type: none"> Net Zero Teesside Power Limited (company number 12473751) Net Zero North Sea Storage Limited (company number 12473084) <p>The electricity generating station with carbon capture (work number 1) is being developed by the following partners, through the following entities, with bp leading as operator:</p> <ul style="list-style-type: none"> BP Exploration Operating Company Limited, a company incorporated in England and Wales (company number 00305943) Equinor New Energy Limited, a company incorporated in England and Wales (company number 6824625) <p>Eni UK Limited and Total Gas & Power Chartering Limited are no longer partners in relation to NZT Power</p> <p>The CO₂ gathering network (Work Number 6), CO₂ compressor station (Work Number 7) & onshore section of the CO₂ export pipeline (Work Number 8) are being developed by the following partners, through the following entities, with bp leading as operator:</p>

		<ul style="list-style-type: none"> • BP Exploration Operating Company Limited, a company incorporated in England and Wales (company number 00305943) • Equinor New Energy Limited, a company incorporated in England and Wales (company number 6824625) • Shell U.K. Limited, a company incorporated in England and Wales (company number 00140141) • Total Gas & Power Chartering Limited, a company incorporated in England and Wales (company number 06710451), and • National Grid Carbon Limited, a company incorporated in England and Wales (company number 03932833) <p>Eni UK Limited is no longer a partner in relation to Net Zero North Sea Storage Limited.</p> <p>The Applicant agrees to lodge updated annual reports for the project partners, following the close of CAH1.</p> <p><i>Post-hearing note:</i> the latest audited accounts are at Appendices 2 to 6 of this written summary. In terms of an overview, the total net assets of the parent companies of each project partner entity are summarised below and demonstrate a very substantial net asset position:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>Partner</th> <th>Position as at</th> <th>Parent Company Total Net Assets</th> </tr> </thead> <tbody> <tr> <td>BP Exploration Operating Company Limited</td> <td>31 December 2021</td> <td>\$90,439 million</td> </tr> <tr> <td>Equinor New Energy Limited</td> <td>31 December 2021</td> <td>\$39,024 million</td> </tr> </tbody> </table>	Partner	Position as at	Parent Company Total Net Assets	BP Exploration Operating Company Limited	31 December 2021	\$90,439 million	Equinor New Energy Limited	31 December 2021	\$39,024 million
Partner	Position as at	Parent Company Total Net Assets									
BP Exploration Operating Company Limited	31 December 2021	\$90,439 million									
Equinor New Energy Limited	31 December 2021	\$39,024 million									

			Shell U.K. Limited	31 December 2021	\$175,326 million
			Total Gas & Power Chartering Limited	31 December 2021	\$114,999 million
			National Grid Carbon Limited	31 March 2021	£19,860 million
9.	Item 9 Review of Issues and actions arising	N/A			
10.	Item 10 Any other business	N/A			
11.	Item 11 Closure of the Hearing	N/A			

APPENDIX 1: EGGBOROUGH DCO - CROWN ESTATE'S RESPONSE TO THE SOS'S REQUEST FOR FURTHER COMMENTS (ON 01 AUG 2018)

APPENDIX 2: LATEST AUDITED ACCOUNTS – BP EXPLORATION OPERATING COMPANY LIMITED

APPENDIX 3: LATEST AUDITED ACCOUNTS – EQUINOR NEW ENERGY LIMITED

APPENDIX 4: LATEST AUDITED ACCOUNTS – SHELL U.K. LIMITED

APPENDIX 5: LATEST AUDITED ACCOUNTS – TOTAL GAS & POWER CHARTERING LIMITED

APPENDIX 6: LATEST AUDITED ACCOUNTS – NATIONAL GRID CARBON LIMITED