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MMO Reference: DCO/2024/00007
Planning Inspectorate Reference: EN070009
Identification Number: 20049273

16 September 2024

Dear Christopher Butler,

Planning Act 2008, H2 Teesside Limited, Proposed H2 Teesside Order

Deadline 1 Submission

On 18 June 2024 the Marine Management Organisation (the "MMO") received notice under section 56 of the Planning Act 2008 (the "PA 2008") that the Planning Inspectorate ("PINS") had accepted an application made by H2 Teesside Limited (the "Applicant") for determination of a development consent order for the construction, maintenance and operation of the proposed H2 Teesside hydrogen production plant and associated infrastructure (the "DCO Application") (MMO ref: DCO/2024/00007; PINS ref: EN070009).

The Applicant seeks authorisation for the construction, operation and maintenance of DCO Application, comprising of the construction, operation and decommissioning of an up to 1.2-Gigawatt Thermal (GWth) Lower Heating Value (LHV) Carbon Capture (CC) enabled Hydrogen Production Facility located in Teesside and all associated development ("the "Project").

This document includes the MMO's summary of our Deadline 1 written representation submitted to PINS on 17 September 2024.

This written representation is submitted without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This representation is also submitted without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.

Yours faithfully,

[redacted]

Yvonne Golightly
Marine Licensing Case Officer

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1. Comments Relevant Representations from Other Interested Parties

1.1.1 The MMO's Deadline 1 response contains detailed comments on the following Interested Parties, Relevant Representations:

- Environment Agency (EA) (RR-009)
- Historic England (HE) (RR-020)
- Natural England (NE) (RR-026)

1.1.2 The MMO will be reviewing the responses from the above Interested Parties (IPs) throughout examination and hopes to see issues between the above IP's and the Applicant resolved.

1.1.3 The MMO notes that the Maritime Coastguard Agency, Trinity House and the Inshore Fisheries and Conservation Authority (IFCA) have not responded with relevant representation comments. The MMO recommends that the Applicant consults these organisations as they may require maritime notices to be issued for safety reasons.

2. Environmental Statement

2.1 Summary of Position

2.1.1 The MMO notes that the applicant plans to rely on Article 35 'Bored Tunnels' exemption within The Marine Licensing (Exempted Activities) Order 2011. The Applicant states that a Deemed Marine Licence (DML) is unnecessary for the proposed development, since the construction utilises trenchless techniques such as Horizontal Directional Drilling and/or Micro bored tunnelling beginning and ending on land, above Mean High Water Springs (MHWS). As such there are no DMLs included in the DCO application. The MMO are maintaining a watching brief over the course of the examination.

2.2 Dredge, Disposal and Chemical Use

2.2.1 The MMO would expect to see more obvious consideration in the ES of the impact of accidental depositing of materials into the River Tees or Estuary as a result of demolition works on riverine and estuarine environments, including suitable mitigations in the event of accidental deposition, to minimise any impacts as far as is reasonably practicable.

2.2.2 The Applicant has provided MMO with a map detailing the exact locations of the entry and exit pts, and the MMO is satisfied that these are above MHWS.

2.3 Coastal Processes

2.3.1 The MMO notes that the crossing technologies will be at a minimum of 25 metres (m) depth (and a maximum of 60m). Assuming that these depths refer to depths below the riverbed then this would be sufficient to avoid impacts to marine/coastal processes.

2.3.2 The datum against which the depths are quoted should be confirmed by the Applicant.

2.3.3 Confirmation of the constraints on boring depth that apply to all affected sites is required.

2.3.4 The ES does not treat the coast itself as a receptor and has not assessed the impact of the development on the future coastal processes and the resulting condition of the shoreline. The proposed development is likely to maintain its present footprint but could potentially contribute to coastal squeeze and gradual shrinkage of the area available for a retreating shoreline.

The site lifetime is listed as 25 years, and the MMO believes the impact should be addressed as a worst-case scenario. Impact avoidance could include allowing space for coastal retreat, something the development prevents.

2.4 Benthic Ecology

2.4.1 The MMO understands that the commitment to employ trenchless techniques for pipelines crossing the river Tees will avoid the potential for impact to benthic receptors. Providing the onshore works associated with trenchless technology are conducted such that they also avoid any pathway for impact, the MMO do not have any concerns regarding the proposed construction programme.

2.4.2 ES Chapter 14: Marine Ecology, contains an adequate description of the intertidal marine habitats within the study area and is based on review of relevant data sources.

2.4.3 The MMO notes that the cumulative impact from the proposed development and neighbouring projects (specifically Net Zero Teesside Power) is assessed within Chapter 23: Cumulative and Combined Effects.

2.5 Fisheries and Fish Ecology

2.5.1 The Applicant has scoped out the impact of fish entrapment or entrainment during the abstraction of water. The Applicant states that instead, the proposed development will use water from existing sources. Therefore, the Applicant considers no impact pathway to fish from entrainment and mitigation measures are not being considered further. The MMO considers that this is appropriate.

2.5.2 If any decommissioning works are to be conducted in a marine environment, the MMO recommends a separate marine licence is required.

2.5.3 Please can the Applicant confirm if they expect underwater noise to be above baseline conditions. If the construction period was to temporally overlap with the 'sensitive' migration seasons of diadromous species, it could cause a barrier when migrating to important spawning grounds further up the Tees.

2.5.4 If all tunnel boring activities were to be carried out at a minimum depth of 10-25m below the riverbed, the MMO would consider the risk of potential impact in terms of underwater sound and vibration on fish receptors to likely be low.

2.5.5 It should be acknowledged and recognised in the ES that although fish receptors present in the vicinity will likely be habituated to vessel noise, to at least some degree, an increase in vessel activity may have some negative consequences for fish.

2.5.6 The MMO has no objections to underwater noise being scoped out of the ES in this instance. However, clarity is needed on vibratory sheet piling, potentially in a marine environment. If any vibratory piling is required in the marine environment, the MMO recommends that underwater noise impacts are scoped in.

2.5.7 If any UXO clearance is required, it must be assessed under a separate marine licence.

2.5.8 The MMO considers the broadscale fish sensitivity maps and other evidence bases, the desk-based survey and the fish environmental Deoxyribonucleic acid (eDNA) surveys to be appropriate for projects of this nature.

2.5.9 The MMO notes the Framework CEMP which includes the requirement for a Water Management Plan (WMP) and other embedded mitigation measures. The MMO welcomes the consideration of breakout (HDD collapse).

2.5.10 The MMO considers the 10 kilometre (km) Zone of Influence (ZoI) from the proposed development site boundary to be appropriate.

2.5.11 The MMO recommends the Applicant includes the impact of underwater noise on fish when conducting their cumulative impact assessment.

2.6 Shellfish Ecology

2.6.1 There is an absence of data sources identified which will provide data for small inshore vessels (<10m) and artisanal inshore fisheries. The MMO would expect to see data used to cover these areas, for example through consultation with the local IFCA. Impacts may need to be reviewed when data on inshore and artisanal fisheries is obtained.

2.6.2 There are no mitigation measures proposed in relation to shellfish, this is considered acceptable.

2.7 Underwater Noise

2.7.1 The MMO have no objections to the scoping out of underwater noise related to vessel activity in this instance, given Teesport experiences regular vessel traffic. However, it should be acknowledged and recognised in the ES that vessel noise can affect marine receptors.

2.7.2 The Applicant should confirm that there will be no drilling or piling required (of any kind) in the marine environment. There is ambiguity regarding the requirement of vibratory sheet piling. If any vibro-piling is required in the marine environment, then this should be adequately assessed in the ES, and underwater noise should be scoped in.

2.7.3 The MMO agrees that the risk of potential impact in terms of underwater sound and vibration on marine ecological receptors is likely to be low.

3. Comments from Issue Specific Hearing (ISH) 1

3.1 Comments

3.1.1 The MMO notes that ISH 1 discussed the scope of the development and its relationship to the extent of the Order Limits and progress of development design.

3.1.2 The MMO will keep a watching brief on responses from the Applicant relating to concerns raised in ISH 1.

3.1.3 Whilst the MMO is content that the crossing entry and exit pits are above MHWS, we would like to see the distances referenced to the MHWS mark and we query what data set has been used to obtain the MHWS location.

Yours faithfully,

[redacted]

Yvonne Golightly
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