

H2Teesside Project

Planning Inspectorate Reference: EN070009

Land within the boroughs of Redcar and Cleveland and Stockton-on-Tees, Teesside and within the borough of Hartlepool, County Durham

The H2Teesside Order

Document Reference: 9.2: Statement of Common Ground between H2 Teesside Limited and the Environment Agency

The Planning Act 2008



Applicant: H2 Teesside Ltd

Date: September 2024

The Planning Act 2008
The Infrastructure Planning
(Applications: Prescribed Forms and
Procedure) Regulations 2009
The H2Teesside Order 2021

Statement of Common Ground between H2 Teesside
Limited and the Environment Agency

Planning Inspectorate Scheme Reference	EN070009
Application Document Reference	9.2
Author	AECOM
Approved By	

Revision	Date	Status
0	17.09.24	Draft

STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared and agreed by (1) H2 Teesside Ltd. and (2) the Environment Agency

Signed.....
[Name]
[Position]
on behalf of H2 Teesside Ltd.
Date:

Signed.....
[Name]
[Position]
on behalf of the Environment Agency
Date:

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1.0 INTRODUCTION AND PURPOSE

1.1 Purpose of Statement of Common Ground

1.1.1 This Statement of Common Ground ('SoCG') relates to an application (the 'Application') made by H2 Teesside Limited (the 'Applicant'), to the Secretary of State for Energy Security and Net Zero for a Development Consent Order ('DCO') under Section 37 of the Planning Act 2008 (the 'PA 2008') for the H2Teesside Project.

1.1.2 The Application has been accepted for examination. The Examination commenced on 29 August 2024.

1.1.3 The Examining Authority's ('ExA') Rule 8 letter (Annex B) dated 30 August 2024 confirms that the Applicant should prepare a SoCG with the Environment Agency ('EA') in respect of the Proposed Development.

1.2 Parties to the SoCG

The Applicant and the Proposed Development

1.2.1 The Applicant is a private limited company aiming to develop and operate the H2Teesside project, which is an approximately 1.2-Gigawatt Thermal (GWth) Carbon Capture & Storage (CCS) enabled Hydrogen Production Facility (the 'Production Facility') and associated connections ('the Proposed Development') on land in Redcar and Cleveland, Stockton-on-Tees, and Hartlepool (hereafter referred to as the 'Proposed Development Site'). The Proposed Development will support the decarbonisation of UK-produced natural gas in Teesside for use in industrial applications, thus helping to achieve national targets in relation to net zero. It will also be a key contributor to restoring manufacturing jobs in the Tees Valley.

1.2.2 The Proposed Development Site covers an area of approximately 508 hectares (ha) and is located primarily within the administrative boundaries of Redcar and Cleveland Borough Council (RCBC) and Stockton-on-Tees Borough Council (STBC). The Hydrogen Pipeline Corridor (refer to Figure 4-4 of the ES [APP-087]) extends further north-west to also include land within the administrative boundary of Hartlepool Borough Council (HBC).

1.2.3 The Hydrogen Production Facility will be located at the Main Site within the Teesworks development site, as shown in Figure 4-1 of the ES [APP-084].

The Role of the EA

1.2.4 The EA is a non-departmental public body, the purpose of which is 'to protect or enhance the environment taken as a whole', so as to contribute to 'the objective of achieving sustainable development' (Environment Act, 1995).

1.2.5 The EA is a statutory consultee in respect of all DCO applications that are likely to affect land in England. Annex D of Advice Note 11 'Working with Public Bodies' produced by the PINS sets out in detail the role of the EA in the DCO process, including the level of input and agreement that might be expected from the EA.

1.2.6 The EA's role covers various topics including:

- managing the risk of flooding from main rivers, reservoirs and the sea;
- regulating major industry and waste;
- treatment of contaminated land;
- water quality and resources;
- fisheries;
- inland river, estuary and harbour navigation; and
- conservation and ecology of the aquatic environment.

1.2.7 The EA also has a role as the regulator for the Environmental Permitting regime and is responsible for granting, regulating and enforcing Environmental Permitting requirements for any installation that requires an environmental permit under the Environmental Permitting (England and Wales) Regulations 2016 (as amended).

1.3 The Purpose and Structure of this Document

1.3.1 The purpose and possible content of SoCGs is set out in paragraphs 58 to 65 of the Ministry of Housing, Communities and Local Government guidance entitled 'Planning Act 2008: examination of applications for development consent' (April 2024). Paragraph 58 of that guidance explains the basic function of SoCGs as follows:

"A statement of common ground is a written statement prepared jointly by the applicant and another party or parties, setting out any matters on which they agree. As well as identifying matters which are not in real dispute, it is also useful if a statement identifies those areas where agreement has not been reached. The statement should include references to show where those matters are dealt with in the written representations or other documentary evidence."

1.3.2 SoCGs are therefore a useful and established means of ensuring that the evidence at the DCO examination phase focuses on the material differences between the main parties, and so aim to help facilitate a more efficient examination process.

1.3.3 The purpose of this SoCG is therefore to summarise the agreements reached between the parties on matters relevant to the Examination of the Application and to assist the ExA. It also explains the matters which remain unresolved at the time of writing, but which both parties are working positively toward resolving. As such, it is expected that further iterations of the SoCG will be submitted to the ExA throughout the Examination and prior to the making of any DCO for the Proposed Development.

1.3.4 The SoCG has been prepared with regard to the above guidance and is structured as follows:

- Section 2 – sets out the engagement and related discussions held between the parties.

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- Section 3 – sets out the matters discussed and agreed to date.
 - Section 4 – sets out the matters that are under discussion and to be agreed and the proposed way forward, where relevant.
 - Section 5 – sets out the matters, if any, where there is disagreement.

2.0 ENGAGEMENT WITH THE ENVIRONMENT AGENCY

2.1 Summary of Engagement

2.1.1 A summary of the key engagement that has taken place between the Applicant and the EA is detailed in **Table 2.1** below.

Table 2.1: Engagement between the Applicant and the EA

DATE	FORM OF ENGAGEMENT	DOCUMENT REF. (IF ANY)	DETAILS
4 October 2022	Virtual Technical Meeting		An introductory meeting was held to provide the EA with an introduction to the Proposed Development and agree what advice services the Applicant would seek from the EA under their DAS service.
17 March 2023	Letter		A pre-application advice on the Proposed development, in particular, all utility connection map and charge request form.
9 May 2023	Scoping Opinion	See Appendix 1E: Scoping Opinion Responses [APP-188]	<p>A written representation in response to PINS's consultation in relation to the application for a Scoping Opinion submitted to PINS by the Applicant on 6 April 2023.</p> <p>The EA provided a range of technical feedback to help inform the DCO Application. Key topics raised in the PINS Scoping Opinion included:</p> <ul style="list-style-type: none"> • The location of the Order Limits of the Proposed Development in relation to Flood Zones 2 and 3. • The need for appropriate assessment of the flood risk vulnerability of the Proposed Development and for this assessment to conduct a comprehensive assessment based on detailed data.

DATE	FORM OF ENGAGEMENT	DOCUMENT REF. (IF ANY)	DETAILS
			<ul style="list-style-type: none"> • A notification of flood risk information and other general environmental information held by the EA that could be used in developing the Applicant’s assessment. • A notification of EA proposed flood alleviation schemes which may interface with the Proposed Development. • A notification that various documents including but not limited to a WFD assessment and a Construction Environmental Management Plan; and various clarifications including but not limited to the drainage strategy and reclaimed water supply should be submitted in support of the DCO Application. • An early indication of potential licences that may be required for the Proposed Development including but not limited to a Water Resources Licence and Impounding Licence. • The need to provide a nutrient neutrality assessment and to ensure no additional nitrogen is entering the River Tees as a result of the Proposed Development. • The need to thoroughly assess the potential for the proposal to affect EA flood defence assets and notification that existing flood

DATE	FORM OF ENGAGEMENT	DOCUMENT REF. (IF ANY)	DETAILS
			<p>standard of protection must be maintained throughout all phases of the Proposed Development.</p> <ul style="list-style-type: none"> • Details on construction methodologies and maintenance activities in proximity to flood defences. • Recommendation on drainage strategy. • Requests that the future baseline considers the ongoing ecological recovery efforts taking place in the Tees Estuary. • Requests information on foul drainage be covered in the DCO application. • Notification of EA and Partner projects and an invitation for the Applicant to consider supporting them. • Information on certain aspects required to be assessed within WFD Assessment. • Query regarding noise and vibration effects on migratory fish.
12 June 2023	Virtual Technical Meeting		This meeting was to provide an overview of the work related to Water Framework Directive (WFD) impact assessment and the Nutrient Neutrality Screening and assessment.
14 September 2023	First Consultation (statutory consultation) in accordance with Section 42 of the PA 2008.	See Consultation Report [APP-030]	<p>The Applicant issued a Section 42 letter to the EA on 14 September 2023.</p> <p>The EA provided a range of technical feedback to help inform the DCO Application. Key topics</p>

DATE	FORM OF ENGAGEMENT	DOCUMENT REF. (IF ANY)	DETAILS
			<p>raised in the Statutory Consultation response included:</p> <ul style="list-style-type: none"> • Notes that a Flood Risk Assessment and WFD Assessment should be submitted in support of the DCO Application. • Notes that flood risk mitigation will need to be included within the Proposed Development. • Notes that the Proposed Development Site may interact with EA flood defence assets. • Notes that existing flood standard of protection must be maintained throughout all phases of the Proposed Development. • Notes that the Proposed Development construction should be protective of relevant watercourses and other features of interest. • Notes mitigation factors considered to be relevant to environmental assessments. • Acknowledgement of the quantitative modelling undertaken. • Requests that an assessment of water availability should be provided. • Requests that proximity to landfill be taken into account in assessment. • Requests air quality assessment to also consider commissioning, tuning and optimisation processes.

DATE	FORM OF ENGAGEMENT	DOCUMENT REF. (IF ANY)	DETAILS
			<ul style="list-style-type: none"> • Discusses potential scenarios and relevant licenses. • Requests additional consideration of various environmental factors.
October 2023	Environmental Permit Pre-application Meeting		Pre-application engagement for the Environmental Permit application was held to seek advice from the EA.
24 November 2023	Virtual Technical Meeting		This meeting was to provide an update on assessments related to Water Environment, including WFD impact assessment, the Nutrient Neutrality Screening outcomes, Hydrodynamic Modelling, and Flood Risk.
13 December 2023	Second Consultation (statutory and non-statutory) in accordance with Section 42 of the PA 2008.	See Consultation Report [APP-030]	<p>The Applicant issued a Section 42 letter to the EA on 13 December 2023 consulting it on a number of changes to the Proposed Development as a result of further design development and technical work undertaken and also responses received to the First Consultation.</p> <p>The EA provided a range of technical feedback to help inform the DCO Application. Key topics raised in the Statutory Consultation response included:</p> <ul style="list-style-type: none"> • A notification of EA proposed flood alleviation schemes which may interface with the Proposed Development and request for clarifying information to ensure there will be no impacts on EA flood defence improvement works. • Requests that additional ecological surveys are carried

DATE	FORM OF ENGAGEMENT	DOCUMENT REF. (IF ANY)	DETAILS
			out following Order Limits changes.
21 August 2024	Virtual Technical Meeting		This meeting was arranged to discuss Examination programme and actions, collaboration going forward and specific detail on EA Relevant Representations regarding flood risk.
4 September 2024	Consultation on proposed changes to the DCO Application.	n/a	A letter was issued to the EA on 4 September 2024 consulting them on a number of proposed changes to the DCO Application.

3.0 MATTERS AGREED

3.1.1 **Table 3.1** below sets out the matters agreed between the parties.

Table 3.1: List of Matters Agreed between the Applicant and the EA

MATTER AGREED	AGREED POSITION
DCO requirements	Except where noted in Section 4.0 of this SoCG, the EA have no comments on any other part of the draft DCO.
Eels Regulations	It is agreed that no abstraction from the estuary is proposed for the Proposed Development and therefore no Eels Regulations compliance issues have been identified.

4.0 MATTERS UNDER DISCUSSION

4.1.1 This section sets out the matters under discussion between the parties and the proposed way forward. **Table 4.1** provides a summary of the issues raised between the parties.

Table 4.1: Summary of Matters under Discussion between the Applicant and the EA

SOCG ID	MATTER	APPLICANT POSITION	EA POSITION
1.	Flood risk	<p>Where compounds can only be located in Flood Zones 2 and 3 for operational reasons mitigation measures are presented in the Flood Risk Assessment ('FRA'), ES Chapter 9 'Surface Water, Flood Risk and Water Resources' [APP-061] and the Framework Construction Environmental Management Plan ('CEMP') [APP-043]. The construction compounds are of temporary nature and management of flood risk is a common requirement of Delivery Partners and their supply chains. Mitigation measures for temporary construction and enabling works are presented in the FRA, ES Chapter 9 and the Framework CEMP.</p> <p>The Proposed Development is classified as 'Essential Infrastructure' in line with NPPF Annex 3: Flood Risk Vulnerability Classification. Essential Infrastructure is defined as <i>“Essential utility infrastructure which has to be located in a flood</i></p>	<p>EA have concerns about construction compounds located within Flood Zones 2 and 3 (EA Relevant Representation 1) and EA are not satisfied with evidence that the proposed operational infrastructure in Flood Zone 3 will remain safe in times of a flood (EA RR2).</p> <p>EA have concerns that the temporary construction and enabling works are not adequately considered within the FRA (EA RR3).</p>

SOCG ID	MATTER	APPLICANT POSITION	EA POSITION
		<p><i>risk area for operational reasons ...</i>". Due to the connections required and the infrastructure needing to be connected to, some pipelines and infrastructure will be required to be developed in areas identified as Flood Zone 2 or 3. However, largely this proposed infrastructure will be underground; those elements that aren't (e.g. Above Ground Installations) are typically unmanned and access is normally only required for planned maintenance which can be scheduled to avoid any flood risk events.</p> <p>Details regarding watercourse crossings are provided in Section 9.5 of ES Chapter 9 'Surface Water, Flood Risk and Water Resources' [APP-061] and confirms the crossing of the River Tees and Greatham Creek (and adjacent water features at Seal Sands) will be underground via trenchless technologies (Horizontal Direction Drilling ('HDD') or Micro Bored Tunnelling ('MBT')).</p> <p>No element of the Proposed Development is classed as Highly Vulnerable infrastructure – in contrast, the nature of the Proposed Development has low vulnerability, being underground or</p>	

SOCG ID	MATTER	APPLICANT POSITION	EA POSITION
		<p>designed to be exposed to the elements. Locations where further detailed design is required is proposed to be managed through the process of Protected Provisions and Requirement 11 [AS-017].</p> <p>Existing above ground pipelines including those in the Linkline corridor are appropriately designed, protected and maintained in accordance with pipeline design standards and legislative requirements.</p>	
2.	Water Quality Modelling Report	The Applicant has provided responses to the requested information/clarifications on this report [APP-193] set out in the EA’s RR.	The EA is considering the information provided by the Applicant and will confirm shortly whether it is content with this report.
3.	Habitat classification	The Applicant's intention to map habitats using the Phase 1 habitat survey classification was set out in the EIA Scoping Report [APP-184] and the Preliminary Environmental Information Report ('PEIR'). Due to the size, complexity and distribution of habitats within the site, the Applicant followed standard Phase 1 survey guidance. Where habitats had the potential to be of botanical importance (or to meet priority habitat criteria), an additional National Vegetation Classification ('NVC') survey was completed during the optimum survey season by an experienced	<p>EA raising concern with habitat descriptions and methodology used in their assessment, specifically relating to Open Mosaic Habitat and Semi-improved neutral grassland (EA RR9) and relating to the presence of brackish and freshwater water bodies, specifically noting “ponds and saline lagoon” (EA RR10).</p> <p>EA raise concern regarding the classification of habitats that are potentially functionally linked to statutory designations and query whether they should be linked in</p>

SOCG ID	MATTER	APPLICANT POSITION	EA POSITION
		<p>botanist. As NVC surveys are not appropriate for open mosaic habitats, open mosaic areas were assessed against priority habitat criteria.</p> <p>The Applicant confirms that paragraph 12.4.21 (which describes ponds and saline lagoons) should be under the heading 'standing water'. The Applicant has reviewed the level of importance assigned to saline lagoons and confirms this is of up to National importance in line with the impact assessment tables within the report. The Applicant does not consider an update to ES Chapter 12 [APP-064] is needed.</p> <p>In relation to the classification of habitats that are potentially functionally linked to statutory designations, the Applicant notes that assemblages of species that are qualifying features of the Teesmouth and Cleveland Coast Special Protection Area ('SPA') and Ramsar site, that occur within land that is functionally linked to the SPA, are valued separately because qualifying features of designated sites, and land that is functionally linked to a designated site, are not necessarily of International 'importance' in their own right.</p>	<p>the assessment more so to the statutory designations (EA RR11).</p> <p>EA raise concern about inconsistency between ES Chapter 12 [APP-064] and Outline Landscape and Biodiversity Management Plan ('OLBMP') [APP-039] (EA RR12). EA also links this inconsistency to the point raised in EA RR11 regarding functional linkage to statutory designations.</p>

SOCG ID	MATTER	APPLICANT POSITION	EA POSITION
4.	Impact to species	<p>Mitigation measures for INNS, water voles and otters are set out in the Framework CEMP [APP-043] and the OLBMP (Paragraph 4.2.20) [APP-039], including the need for an Invasive Plant Species Management Plan in the former.</p> <p>The Applicant is discussing with the EA any further amendments required but at Deadline 2 will provide for the Framework CEMP [APP-043] to include reference to INNS animals including freshwater invertebrates and amphibians as well as the current reference to a biosecurity protocol.</p>	<p>EA raise concern that mitigation against INNS is insufficient (EA RR13).</p> <p>EA raise concern that there is no consideration on protocol if otter or water vole are encountered during works (EA RR14 and EA RR15).</p>
5.	Heat re-use	<p>The process design for the Proposed Development utilises licensed technology for which extensive process design has been undertaken in order to achieve optimised heat integration within the process itself. The hydrogen production facility as a whole is therefore highly optimized from an energy perspective with incorporation of heat integration and a key criterion in the licensor selection was the overall efficiency of the plant, in which the selected licensor scored better than competing technologies.</p>	<p>EA considers that the Applicant should maximise the potential to use re-waste heat from the district heating project.</p>

SOCG ID	MATTER	APPLICANT POSITION	EA POSITION
		<p>Due to the nature of the production process and the scale of heat integration, there is very limited beneficial waste heat available for off-site users. Therefore, no opportunity to connect to any potential district heating system has been identified.</p>	
6.	Habitat enhancement	<p>The Applicant will engage in further discussion on this matter with the EA.</p>	<p>The EA welcomes that the Applicant has undertaken initial discussions on opportunities for habitat enhancement that contribute to achievement of Water Framework Directive ('WFD') objectives in the Tees estuary area (EA RR19) and is open to discussing this further with the Applicant.</p>
7.	Protective Provisions and Section 150 Consent	<p>The Applicant notes this, and based the draft Protective Provisions on the Net Zero Teesside DCO and its understanding of the EA's preferred drafting across multiple DCOs.</p>	<p>The EA is considering the wording of the Protective Provisions contained within the draft DCO [AS-017] and will be unable to give Section 150 consent to the relevant disapplications within the DCO until it has confirmed it is content with those provisions.</p>
8.	DCO requirements	<p>The Applicant awaits the EA's comments on this matter.</p> <p>It will also provide an update in due course to the EA on proposed drafting to deal with the concerns raised by Anglo American in respect of the interaction with the existing Bran Sands permit.</p>	<p>The EA is considering the wording of Requirements 10, 11 and 12, 15, 21 and 28 to confirm whether it is content with the drafting.</p>

SOCG ID	MATTER	APPLICANT POSITION	EA POSITION
9.	Permitting	<p>An application for an Environmental Permit was received by the EA on 14 June 2024.</p> <p>On 7 August 2024 the Applicant received a letter from the EA requesting missing information in the application. This information will be sent back to the EA no later than 11 October 2024.</p> <p>The Applicant has been in discussion with the EA and expect that this supplementary information will enable our application to achieve duly made status. The EP application reference is EPR/AP3328SQ/A001.</p>	<p>The EA considers there is missing information in the Applicant’s Environmental Permit application and detailed the requirements by letter on 7 August 2024.</p> <p>Discussions with the Applicant on the EP application are ongoing.</p>
10.	Adjacent site investigation	<p>The Applicant is discussing this with the EA to understand what effect (if any) this has on the Proposed Development and its assessments.</p>	<p>EA notes that a site adjacent to a section of the proposed pipeline corridor is currently being investigated under Part 2A of the Environmental Protection Act 1990 (EA RR22).</p>

5.0 MATTERS NOT AGREED

5.1.1 Table 5.1 provides a summary of the matters not agreed between the parties.

Table 5.1: Summary of Matters Not Agreed

SOCG ID	MATTER	THE APPLICANT POSITION	ENVIRONMENT AGENCY POSITION