

Lead Panel Member Examining Authority

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Via email only: h2teesside@planninginspectorate.gov.uk;

3rd October 2024

Dear Sir/ Madam,

Planning Act 2008 – section 89; and the Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 17. Application by H2 Teesside Limited for an Order Granting Development Consent for the H2 Teesside Project. Request for further information, Deadline 2: Representations on behalf of Industrial Chemicals Ltd (ICL)

1. We refer to the above H2 Teesside Development Consent Order (DCO) application. On behalf of our client, Industrial Chemicals Ltd (ICL), also referred to as Industrial Chemicals Group Ltd in the DCO documents, we write to set out our representations concerning the proposed development. These representations cover ICL's general position with additional reference to specific matters raised by the Examining Authority (ExA) under Deadline 2 for your consideration.
2. In summary, ICL operates an established industrial chemicals plant at Port Clarence located on the north bank of the River Tees. Vehicular access to the ICL site is via Huntsman Drive east of the A178 Seaton Carew Road. As an affected and interested party (note, an IP reference is yet to be provided), ICL is seeking assurance that the DCO, if approved will not involve the loss of any access rights over Huntsman Drive and that unrestricted and unimpaired access to the adopted highway and ICL's site will also be retained to enable commercial operations to be maintained without any impediment.
3. Therefore, until such uncertainties are clarified in the form of suitable written assurance from the Applicant and ExA and secured via an undertaking or condition within any consented DCO, ICL wishes to maintain a **holding objection** to the proposed development.

Background & ICL's Position

4. ICL is an established national business and key employer in the Port Clarence area that manufactures and distributes industrial chemicals, supplying products to the detergent, paper, water treatment and chemical industries both locally and throughout the UK.
5. ICL's Port Clarence site falls outside of the DCO Application Boundary. However, the DCO Limits include Huntsman Drive, covering ICL's site entrance and the route to the adopted highway at Seaton Carew

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Road (A178). From an operational point of view, it is of critical importance that access to the ICL site via Huntsman Drive and the adopted highway is maintained at all times.

Proposed Acquisition of Huntsman Drive & Extinguishment of Rights

6. ExA Document Reference: 3.1 Book of Reference, refers to proposed permanent acquisition of new rights over 180.91 square metres of private road (Huntsman Drive) Seal Sand, Billingham (CE216960 – Qualified Freehold). This is cross referenced to Land Plan Sheet 8, which identifies Huntsman Drive as order land – new rights to be compulsorily acquired and in relation to which it is proposed to extinguish easements, servitudes and other private rights.
7. Also, at page 2227 of the Book of Reference, ICL is identified under Category 3 as a party/ person which the Applicant thinks that, if the order as sought by the application were to be made and fully implemented, the person would or might be entitled – (a) as a result of the implementing of the order, (b) as a result of the order having been implemented, or (c) as a result of use of the land once the order has been implemented, to make a relevant claim, under the provisions of section 57(4) of the Planning Act 2008. No further details have been provided to ICL concerning the extent or implications of the proposed acquisition on ICL's rights of access to and from the public highway via Huntsman Drive.
8. Consequently, until suitable assurances are provided concerning guaranteed continued rights of access, to ensure its commercial operations are not compromised, it is necessary for ICL to maintain a holding objection to the proposed DCO.

Access Arrangements

9. Concerning the Applicant's proposed access arrangements, it is unclear what purpose the intended use of Huntsman Drive will be at both the construction and operational phases of the proposed H2 Teesside development. It is noted that the HGV Route plan (Figure 15-2) appears to confine HGV movements south of the River Tees, although it is not clear how the northern site will be serviced in this respect. If Huntsman Drive is to be used for HGV access, then suitable upgrading and maintenance works are likely to be necessary and should be secured as part of any associated DCO approval.
10. Also concerning access arrangements, it is noted that a number of highway works are proposed and it is unclear if these would entail road closures via Temporary Traffic Regulation Orders, which may impact on the ability of ICL to service its site on a 24 hour/ 7 days a week basis. Such continual access would need to be guaranteed to satisfy ICL's requirements.
11. Therefore, a key consideration and action is to ensure that any impacts arising from the DCO proposals on ICL's existing and future operations are assessed and respected through the determination of the DCO application. This is required to ensure that ICL's Port Clarence site as a key commercial concern is protected in line with an accepted planning policy principle as set out in paragraph 193 of the National Planning Policy Framework, which states that "*existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established*".

Responses to Examining Authority's (ExA) Questions (ExQ1) for Deadline 2

12. With the above context in mind, set out below are matters to be considered in relation to the ExA's questions concerning relevant acquisition and access proposals related to the DCO, in so far as they may affect ICL as an Interested Party.

6) Compulsory Acquisition & Temporary Possession

Q1.6.62 – General, Detailed or Other Matters – 'Please detail any land which, following acquisition of rights or freehold and extinguishment of existing right, will be inaccessible, severed, have no access or will be economically unviable.'

13. As explained in paragraphs 5 to 8. above, ICL is unclear what implications the proposed acquisition of Huntsman Drive and extinguishment of any rights will have on the continued use of its access across this road to the public highway. Certainly, if current access rights are intended to be withdrawn leading to access to the ICL site becoming restricted, severed or unavailable, such a situation would render ICL's operations unviable and in conflict with National Planning Statement principles concerning promoting sustainable development and unacceptable socio-economic impacts.
14. ICL's requirements concerning continued use of Huntsman Drive therefore include no extinguishment of its existing access provisions, assurance of permanent unrestricted access for operational purposes and assurance that the Applicant will improve the road surface to Huntsman Drive to be maintained to an adoptable standard.
15. Consequently, until suitable assurances are provided concerning guaranteed continued rights of access, to ensure commercial operations are not compromised, it is necessary for ICL to maintain a holding objection to the proposed DCO.

17) Traffic & Transportation

Q1.17.1 – Update/ Views sought from Applicant & Interested Parties - 'It would be necessary to use accesses in the ownership and use of a number of IPs (Interested Parties) and other operators. A number of RRs (Relevant Representations) have raised maintenance of their access rights as an issue. Please could all parties provide an update on whether access concerns remain and if the DCO or relevant PPs (protective provisions) offer suitable protection to IPs?'

16. As explained in paragraphs 9 to 11, for operational reasons, ICL requires access to its site at Port Clarence via Huntsman Drive on a 24 hour/ 7 days a week basis. Any break in this position would be unacceptable and could place ICL in an untenable and unviable position.
17. Therefore, assurance is sought from the Applicant and ExA, that access to ICL's site via the adopted road network and Huntsman Drive is to be maintained and guaranteed at all times as a consequence of any approved DCO scheme.
18. Also, concerning the routing of HGV and other traffic associated with the DCO, it is unclear what purpose(s) the use of Huntsman Drive is intended to fulfil at both the construction and operational

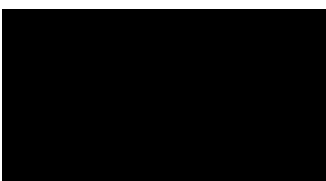
phases of the development. Without knowledge of these intentions, it is difficult to gauge the likely impact of the DCO proposals on ICL's current and future operations.

19. Similarly, it is unclear if HGV access via Huntsman Drive is to be utilised and what the predicted volume of such traffic would be. It is noted that the HGV Route plan (Figure 15-2) appears to confine HGV movements south of the River Tees, although it is not clear how the northern part of the site will be serviced in this respect. If Huntsman Drive is to be used for HGV access, then suitable upgrading and maintenance works are likely to be necessary and should be secured as part of any associated DCO approval.
20. This would be consistent with paragraph 5.14.14 of the Overarching NPS for Energy (EN-1) (2024) when in the context of substantial HGV traffic, the Secretary of State may attach requirements to a consent to "ensure satisfactory arrangements for reasonably foreseeable abnormal disruption, in consultation with network providers and the responsible police force."

Conclusion

21. ICL welcomes the opportunity to comment on the DCO proposals. ICL is understandably seeking assurance and provisions to ensure that unrestricted access rights and associated access to its Port Clarence site south of Huntsman Drive are recognised and guaranteed as part of any DCO approval.
22. Until such assurance is secured via the DCO process, ICL as an Interested Party will need to maintain a holding objection to the proposed scheme.
23. We trust you will find our submission to be of assistance to the ExA when considering the DCO and we would also wish to have the opportunity to comment further as necessary, if further relevant information comes to light.

Yours faithfully



John Lawson
Lawson Planning Partnership Ltd

cc: Industrial Chemicals Ltd