

The Planning Inspectorate
[via Planning Inspectorate website]

Our ref: NA/2024/116840/01-L01
Your ref: EN070009
Date: 3 October 2024

Dear Sir/Madam

**H2TEESSIDE PROJECT – ENVIRONMENT AGENCY COMMENTS ON DEADLINE
1 SUBMISSIONS
LAND EITHER SIDE OF THE RIVER TEES WITHIN THE BOROUGH OF
REDCAR AND CLEVELAND AND STOCKTON-ON-TEES ON TEESSIDE AND
THE BOROUGH OF HARTLEPOOL IN COUNTY DURHAM**

Please find enclosed the Environment Agency's (EA) comments on the Applicants Deadline 1 submissions, which were uploaded to the planning inspectorate website on 19 September 2024.

Please do not hesitate to contact me if you have any questions regarding this letter.

Yours faithfully,

Cameron Chandler
Planning Advisor

REP1-007 8.4 Applicant's Comments on Relevant Representations and Additional Submissions

REF. NO.	EA comments
EA1: FRA	<p>We accept that temporary compounds will only be located within Flood Zone (FZ) 3 where operationally required. Although the compounds are 'temporary' in nature, what is classed as temporary is variable. We would therefore expect the applicant to consider mitigation and management of flood risk for any temporary compounds within FZ3 and FZ2, and/or within 16m of any tidal statutory main river. Mitigation should reflect the duration of operation and the size of the compound, in order to ensure there is no increase in flood risk on and off site.</p> <p>If mitigation for the temporary compounds is not being considered within the Flood Risk Assessment (FRA) specifically, the applicant should update the FRA to indicate where this associated flood risk is being considered, and where this assessment can be found. Once finalised locations of the temporary compounds are agreed, we wish to review copies of the Flood Risk Management Action Plan, and final Construction Environment Management Plan (CEMP).</p>
EA2: Pipeline Design and Construction	<p>If the development is classed as essential infrastructure, this needs to be consistently reflected throughout the DCO documents. For example, Appendix 9A: Flood Risk Assessment, section (9A.6.41 confirms that all essential infrastructure will be developed within FZ3A. However, it fails to state whether it will remain operational in times of a flood, which is one of the criteria as per Table 2 of the Planning Practice Guidance. Additionally, section 9A.9.26 refers to 'recovery time' from a major flood event, yet there should be no need for recovery time as the plant should remain operational if classed as essential infrastructure.</p> <p>Document APP-093 (Drawings 6.3.15 ES Vol II Figure 5-2 Indicative Pipeline Routings) confirms the Tees is trenchless, in line with your response. However, this drawing indicates many of the pipeline routings are overground. Some of these overground pipeline routings are within FZ3. For example South of the Tees towards Dabholm Gut as well as towards Saltholme Brine Reservoir and the Holme Fleet. Where these above ground pipeline corridors are classed as essential infrastructure and are within FZ3, they are required to remain safe and operational in times of flood and must not impede water flows. This means that equipment necessary for its operation would need to remain dry. The applicant will need to provide evidence that the above ground infrastructure within FZ3 can remain dry for the lifetime of the development using 1 in 200 year, plus an allowance for climate change, including a 600mm freeboard to be used as the design flood level.</p> <p>The applicant should also provide evidence which demonstrates existing above ground pipelines meet design standards to be flood resilient and will be maintained in accordance with pipeline design standards and legislative requirements.</p>
EA3: Temporary construction and	<p>We are satisfied with the proposed approach. The FRA should be updated stating that flood risk surrounding temporary and enabling</p>

enabling works (flood risk)	works are being considered, and reference which documents these assessments can be found. We can review construction methods through a final CEMP and/or through the protective provisions regime if agreed.
EA4: Figure 9B-9: Salinity Data and Tees Bay	We are unable to find the amended figure. Therefore are unable to comment further on this point.
EA5: Water Quality Modelling	We have reviewed the Cormix files provided by the Applicant, and are satisfied that relevant dilution is happening, and that excess temperatures are not a concern.
EA6: Table 9B-10: Effective Volume Flux Calculations	<p>We accept the typing error for cadmium and agree that there is no impact on modelling or conclusions of the report for this parameter.</p> <p>We recognise there is a difference in the effective volume flux calculated by the EA and the applicant. However, it is noted that the conclusions are still the same. No further action is required on this matter.</p>
EA7: Figure 9B-15	Our review of the cormix files demonstrate that the dilution is satisfactory.
EA8: Benzo(g, h, i)-perylene, pages 56-57	We recognise that the discharged effluent will contain river water contaminants that are concentrated within the process effluent. Therefore, given that the MAC EQS is already breached, we accept that an EQS proxy of 5% above ambient to assess the significance of the discharge is an appropriate threshold. Although we can see from plate 9B-21 that the wider area of Tees Bay is not affected, clarification is required on the maximum percentage above ambient that is achieved under scenario 3.
EA9: Use of Phase 1 rather than UK Habitat Classification System (UKHab)	We agree with the applicants response to relevant representation EA9, EA10, EA11, EA12, EA13, EA14 and EA15. We consider that these matters are being addressed appropriately.
EA10: Identification of habitats and/or insufficient habitat	
EA11: Habitat and Statutory Site Linkages	
EA12: Inconsistency between documents & weak assessment of value	
EA13: 4.2.20: invasive non-native species (INNS)	
EA14: Table 7-5 Otter	
EA15: Table 7-5 Water Vole	
EA16: Waste Heat and District Heating Proposals	

EA17: Schedule 12 Protective Provisions	<p>The applicant should not apply for both protective provisions and flood risk activity permits, and should only progress down one route or the other.</p> <p>If the applicant wishes to disapply the Flood Risk Activity Permit, we require further details on the specific flood risk activities proposed as part of this work to determine their risk category. The list of generic flood risk activities covered under EPR regulations is available within Chapter 2 Table 1.1 Application Charge Table (Page 33-37), The Environment Agency (Environmental Permitting and Abstraction Licensing) (England) Charging Scheme 2022: version 1.4 (publishing.service.gov.uk).</p>
EA18: Requirement 11 – flood risk	The principle of this requirement is welcomed. Engagement is ongoing between the EA and applicant regarding this requirement.
EA19: Opportunity to secure environmental enhancements	Engagement is ongoing between the EA and applicant.
EA20: Eel Regulations 2009	Noted.
EA21: Groundwater	Noted.
EA22: Land Contamination	<p>Our previous advice regarding land contamination in our relevant representations included an error, incorrectly referring to Table 7-3. This sentence has been corrected below:</p> <p><i>‘It may therefore be appropriate to undertake ground investigation within this area, as detailed within Section 10.5.8: Chapter 10: Geology, Hydrogeology and Contaminated Land [APP-062]’.</i></p>
EA23: Disapplication of Flood Risk Activity Permit (FRAP)	We require further information from the applicant on this matter. Please refer to comments for EA17: Schedule 12 Protective Provisions.

REP1-013 9.2: Statement of Common Ground between H2 Teesside Limited and the Environment Agency

We are satisfied with the content and wording of this document. The matters agreed are correct and the matters under discussion have appropriately included the issues outlined in our Relevant Representations response.

Rule 17 – Use of AI by the Applicant and/ or any IPs in their submissions/ evidence

The EA does not use artificial intelligence as part of any appeal, application or examination.