

National Infrastructure Planning  
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**Date:** 3 October 2024  
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**Sent via email: h2teesside@planninginspectorate.gov.uk**

To Whom It May Concern

**Planning Act 2008 – Section 89 and The Infrastructure Planning (Examination Procedure) Rules 2010**

**Application by H2Teesside Limited for an Order Granting Development Consent for the H2Teesside Project**

**Unique Reference: 20049372**

**Response to Deadline 2 – Response to Applicant Comments on RR**

This letter is sent on behalf of CF Fertilisers UK Limited ("CFL"), registered as an Interested Party for the above application, in accordance with Deadline 2.

Response to Applicant Comments on RRs

Please see below for CFL's response to the Applicant's comments on CFL's relevant representation.

Notification of wish to attend ASI

CFL will only attend the ASI to the extent that a representative will be available for any inspections on CFL's land.

I trust that the below is clear however please do not hesitate to contact me should you have any queries.

Yours sincerely

[REDACTED]

**Peter Nesbit**  
*Partner*  
Eversheds Sutherland (International) LLP

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**Response to Applicant's Comments on CFL's RR**

**CF Fertilisers UK Limited**

<b>CF FERTILISERS UK RELEVANT REPRESENTATION ISSUE</b>	<b>APPLICANT'S RESPONSES</b>	<b>CFL COMMENTS</b>
<p>1.9 As part of the Project, the Applicant seeks to compulsorily acquire new rights over various plots of land which CFL either owns, occupies or has rights over. The Applicant also proposes to take powers to extinguish, suspend or interfere with CFL's rights and impose new restrictions on such land.</p> <p>1.10 Whilst CFL does not object to the Applicant's project in principle, it must ensure that the construction and operation of the proposed works do not adversely affect its current and planned future operations (nor those of others for whom CFL is vicariously responsible) or lead to the impacts identified above. It is expected that these concerns can be addressed by the inclusion of appropriate protective provisions in the</p>	<p>The Applicant has had meaningful discussions with CF Fertilisers and has agreed high level principles for protective provisions drafting. The Applicant's solicitors are currently drafting Protective Provisions reflective of these principles to issue to CF Fertilisers for review and expects to issue these imminently.</p>	<p>CFL have recently received draft protective provisions and are working through them to see how they respond to CFL's RR. CFL will update on this in due course.</p>
<p>The proposed DCO and authorised works have the potential to 1.8.2 compromise Control of Major Accident Hazards ("COMAH") safety planning and give rise to unacceptable hazards.</p>	<p>Given the upper tier COMAH status of the site, the Applicant is committed to adhering to safety standards and working collaboratively with CF Fertilisers and other relevant stakeholders to ensure that safety concerns are fully addressed.</p>	<p>CFL would expect a framework to provide a way to deal with safety concerns.</p>

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	The Applicant is planning the proposed works in compliance with all necessary safety regulations.	
The proposed DCO and authorised works have the potential to inadequately address decommissioning.	<p>The Applicant acknowledges the importance of a clear decommissioning process, and notes that this is likely to occur a significant number of years in the future. The draft DCO includes robust provisions to manage decommissioning effectively, ensuring that safety, environmental, and operational standards are met.</p> <p>These provisions ensure that decommissioning will be carried out safely, with oversight from regulatory authorities, and will ensure that remaining infrastructure is left in a safe condition. The Applicant will engage with CF Fertilisers to ensure a decommissioning regime that meets their operational needs and aligns with regulatory requirements at the time of decommissioning.</p>	CFL are reviewing the draft protective provisions, but it should be noted that a clear mechanism for the Applicant to engage with CFL during decommissioning is required.
The proposed DCO and authorised works have the potential to prevent access (by CFL and other third parties) to critical infrastructure (owned by both to CFL and other third parties)	Safeguarding both existing and future infrastructure, while maintaining uninterrupted access for inspections, maintenance, and emergency interventions are matters which the Applicant envisages will be appropriately resolved through the negotiation of appropriate protective provisions with CF Fertilisers. Please see response above confirming the current status of draft protective provisions.	CFL have not yet received the draft protective provisions and therefore cannot comment as to whether they are sufficient to protect CFL's critical infrastructure.
The Applicant has not yet been able to present CFL with any detailed designs for its proposed infrastructure, precise locations or constructions programmes. Without appropriate protections, there is no guarantee that the Applicant would be able to ensure that its works are suitably timed, located or undertaken in a way that reduces	The Applicant has provided CFL with indicative pipeline designs and the associated routing and will share further details of design when these are available.	CFL has requested more detailed designs from the Applicant.

<p>major hazard risk to as low as reasonably practicable. Nor is there any guarantee that access will be maintained for appropriate safety inspections and emergency maintenance</p>	<p>Please see responses above regarding the preparation of protective provisions for review by CF Fertilisers.</p>	
<p>2.12 The proposed powers include the ability to extinguish, suspend or interfere with CFL's rights. Unchecked, this is unacceptable in the context of critical infrastructure which must be maintained in situ without interruption and with a continuous right of access for maintenance and major accident prevention reasons.</p>	<p>The Applicant has included the power to extinguish rights in the DCO, to ensure the delivery of the Proposed Development.</p> <p>Where critical infrastructure will remain in situ during the construction and operation of the proposed development, bespoke protective provisions will be negotiated with CF Fertilisers to regulate such interactions.</p>	<p>CFL have recently received draft protective provisions and are working through them to see how they respond to CFL's RR. CFL will update on this in due course.</p>
<p>3.1 Aside from its existing infrastructure, CFL has the benefit of a Deed of Grant enabling it to construct new pipelines in the corridor that spans land plans sheets 1, 2, 3, 5, 9 and 10. It may in the future rely on these rights to construct new infrastructure in the corridor. 3.2 The current draft DCO does not explicitly provide for capacity to be retained within the pipeline corridor for future pipeline infrastructure.</p> <p>3.3 CFL's rights to lay the new pipelines (both in accordance with its rights under the Deed of Grant and any alternative routings) should not be interfered with by the Applicant, who should be under an obligation to ensure that its own works do not prevent or materially increase the costs of implementing future pipeline infrastructure</p>	<p>The Applicant acknowledges the landowner's concerns around future pipeline infrastructure and will locate the pipeline in the most efficient way so as to maximise the potential for future pipelines to utilise the existing infrastructure.</p>	<p>CFL have recently received draft protective provisions and are working through them to see how they respond to CFL's RR. CFL will update on this in due course.</p>
<p>COMPULSORY ACQUISITION</p>	<p>The pipeline routing for the Hydrogen Distribution Network has, throughout the project, been</p>	<p>CFL have recently received draft protective provisions and are working through them to see</p>

<p>4.1 It is understood that much of the land and rights proposed to be compulsorily acquired in the DCO application are required for a hydrogen connection to the CFL site. In fact, since the decision was made to close the ammonia plant, there is no longer any requirement for such connection. Furthermore, it is also understood that a further potential customer, Mitsubishi, located beyond CFL's site has also ceased a number of operations and likely also no longer require a hydrogen feed. Other proposed users in the area are understood to be modest. On this basis, CFL questions whether compulsory acquisition powers are necessary for this element of the project and indeed whether it is deliverable. A better alternative would be to reach private agreements with CFL and others and the Applicant is encouraged to engage with CFL to discuss this.</p> <p>5. OBJECTION</p> <p>5.1 For these reasons CFL must currently OBJECT to the DCO application. It is acknowledged that discussions with the Applicant to date are ongoing and that the concerns identified may in part be capable of being addressed through protective provisions and requirements. CFL will update the Examining Authority as soon as possible in this regard.</p>	<p>designed to accommodate the decarbonisation of Teesside industry as a whole, as opposed to being constructed to facilitate specific offtakers who are currently in situ. The area has been identified as one where high carbon industries are likely to exist in the future, and the Proposed Development provides the capacity to enable their decarbonisation.</p> <p>The Applicant has had meaningful discussions with CF Fertilisers and has agreed high level principles for protective provisions drafting. The Applicant's solicitors are currently drafting Protective Provisions reflective of these principles to issue to CF Fertilisers for review and expects to issue these imminently.</p>	<p>how they respond to CFL's RR. CFL will update on this in due course.</p>
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