

Our Ref: RADA/209088/00096

Charles Russell Speechlys LLP
5 Fleet Place
London EC4M 7RD

T: +44 (0)20 7203 5000

F: +44 (0)20 7203 0200

DX: 19 London/Chancery Lane

[charlesrussellspeechlys.com](https://www.charlesrussellspeechlys.com)

The Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

[REDACTED]@crsblaw.com
D: +44 [REDACTED]
F: +44 [REDACTED]

3 October 2024

**Application by H2Teesside Limited ("the Applicant") for the H2 Teesside Project
Planning Inspectorate Reference: EN070009
Air Products (BR) Limited (Interested Party Reference Number: 20049380)
Written Representation**

1 INTRODUCTION

- 1.1 This Written Representation is made on behalf of Air Products PLC on behalf of Air Products PLC, Air Products (BR) Limited, Air Products Renewable Energy Limited and Air Products Chemicals Teesside Limited (collectively referred to as **Air Products**), in respect of the proposed H2Teesside project (**H2Teesside**) submitted by the Applicant to the Planning Inspectorate which was Accepted for Examination on 22 April 2024.
- 1.2 Air Products made a Relevant Representation [**RR-006**] on this Application on 1 July 2024 seeking to protect its existing infrastructure and assets within Order Limits. As set out in its Relevant Representation, Air Products supports the Project subject to its concerns relating to its assets in the area being fully addressed.

2 SUMMARY OF AIR PRODUCTS' POSITION

- 2.1 Air Products is an affected person in respect of existing infrastructure within the current Order Limits including an oxygen pipeline and a nitrogen pipeline (that Air Products operates and maintains) together with its interest in the Tees Valley 1 and Tees Valley 2 sites.
- 2.2 The Land Plans [**AS-003**] and Book of Reference [**AS-012**] identify 121 plots where Air Products has a Category 1 or Category 2 interest (in some instances, multiple Air Products entities have an interest in the same plot) over which powers compulsory acquisition of land or rights, or temporary possession are sought. To the extent that the Applicant seeks powers in the draft DCO to either (a) compulsorily acquire land (including subsurface) or rights or (b) to extinguish, suspend or override existing rights, Air Products' ability to maintain and operate its existing infrastructure must be preserved.
- 2.3 Air Products objects to the proposed powers of compulsory acquisition over land in which it has an interest unless appropriate protective provisions secured on the face of the DCO are agreed and a separate asset protection agreement entered into, to ensure that Air Products, and their tenants, can

WKS/335444840.2

continue to operate and develop its assets and undertake its day to day business without interruption. Unless such agreements can be secured, the Applicant's proposals for compulsory acquisition have the potential to compromise the security of existing pipelines and associated infrastructure used by Air Products in connection with its pre-existing business activities.

- 2.4 Air Products notes there has been some positive engagement with the Applicant's solicitors to date, and a copy of the first draft set of protective provisions and asset protection is due to be provided shortly. Air Products looks forward to receiving those documents and working with the Applicant to resolve its concerns.

3 **WRITTEN QUESTIONS**

- 3.1 We note WQ1.9.67 ([PD-008]) seeks an update from interested parties in respect of protective provisions. As set out in this representation, Air Products' relevant representation ([RR-006]) and the Land Rights Tracker ([PDA-022]), protective provisions and an asset protection agreement have been sought and discussions are underway with the Applicant. As matters stand, a templates to form the basis of these documents have been agreed between the parties, and we await the first draft from the Applicant's solicitors for review. Given the early stage of negotiations, we are not in a position to identify any areas of disagreement and to share Air Products' preferred drafting with the Examining Authority (**ExA**), however, we will keep the ExA updated in this regard at future deadlines.

Subject to the agreement of protective provisions for Air Products', benefit being included in the DCO and an appropriate asset protection agreement, Air Products will be in a position to withdraw its objection to the Proposed Development. Until agreement is reached, Air Products will maintain its interest in the Examination and reserves its position with regard to any matters arising from submissions made during the Examination.

Yours faithfully



Charles Russell Speechlys LLP