

National Infrastructure Planning
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Date: 3 October 2024
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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: 20049374

Response to Deadline 2 – Response to Applicant Comments on RR

This letter is sent on behalf of PD Teesport Limited (“PDT”), registered as an Interested Party for the above application, in accordance with Deadline 2.

Response to Applicant Comments on RR

Please see below for PDT’s response to the Applicant’s comments on PDT’s relevant representation.

Notification of wish to attend ASI

PDT will only attend the ASI to the extent that a representative will be available for any inspections on PDT’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 Comments on PDT's RR

PD Teesport Limited

PDT RELEVANT REPRESENTATION ISSUE	APPLICANT'S COMMENTS	PDT RESPONSE
<p>Riverside ro-ro and Northern Gateway Container Terminal (NGCT)</p> <p>2.4 The order limits encompass the area occupied by the Riverside ro-ro berth, located on the eastern bank of the River Tees next to the Riverside Ro Ro Terminal (plots 11/102 to 11/110 and 11/115 to 11/120).</p> <p>2.5 This facility was built in 1999/2000 to accommodate stern ramp roll on roll off (ro-ro ferries). The facility is a key component of the PDT Unitised business and will become increasingly important following a planned enhancement to the facility to enable it to handle 200m long car carriers to support the current buoyant African business in addition to the existing ferry business. The development of infrastructure to support these stern ramp vessels at a capital cost of circa £7-8m has received Board approval at the September 2021 Board meeting.</p> <p>2.6 The Northern gateway is a fully consented (Teesport Harbour Revision Order 2008) deep sea terminal which will ultimately consist of over a kilometre of quay, channel deepening and associated landside infrastructure. The project also includes a new rail terminal which is to be constructed in the area between the</p>	<p>The Applicant is proposing to build a new pipeline crossing of the River Tees including in plots 11/102 to 11/110 and 11/115 and 11/120. This would be either a Microtunnel or Horizontal Directional Drill under the riverbed so as to avoid interference with the surface infrastructure. The Applicant notes PDT's concerns and believes that these can be addressed via appropriate Protective Provisions.</p> <p>The Applicant and PDT have agreed that the NZT DCO Protective Provisions are a suitable starting point for negotiations on H2Teesside protective provisions, subject to any amendments required to reflect the specific nature and interactions of the proposed development.</p> <p>The Applicant has agreed to undertake an initial legal and technical review of the NZT DCO Protective Provisions in this regard and will issue draft Protective Provisions to PDT shortly for review.</p>	<p>PDT have not yet received any protective provisions and therefore cannot comment. PDT will update on the protective provisions in due course.</p>

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Asda and Tesco import centres and Dabholm gut (again shown on the drawing). This is a key project for PDT's growth plans with in excess of £5m invested to date in the development stages, including the current marine and landside site investigation works. The quay construction will require piles to be driven to significant depth which could impact on any pipeline infrastructure.

2.7 Consequently, the acquisition of rights in this area (and potential interference with existing rights) to enable construction of new pipe infrastructure is likely to be very disruptive and potentially significantly determinantal to the operation of the Port and its future expansion. This is not to mention the knock -on impacts that may be experienced by the surrounding occupiers and beneficiaries of this facility.

2.8 If the relevant land is not removed then PDT considers that material determinant may be caused to its undertaking, within the meaning set out in section 127 of the 2008 Act.

Existing pipeline infrastructure

2.9 The area behind the Riverside ro -ro is already fairly congested with existing pipelines which pass under the River Tees to the South Bank. This includes pipelines belonging to, inter alia, Sembcorp, Breagh, Trafigura and BOC. There is little information available on the Project proposals which allow PDT to assess the potential clashes.

<p>2.10 It would also be necessary to consider the nature of the pipeline and any associated Health and Safety Executive ("HSE") consultation distances which could impact on the activities of PDT and its tenants including Tesco and Asda.</p>	<p>The Applicant has performed an assessment of the hazards presented in 6.2.20 ES Vol 1 Chapter 20 Major Accidents and Disasters [APP-073] and has not identified any adverse effect.</p> <p>The Applicant will also be consulting with the HSE as part of the statutory processes.</p>	<p>PDT have not yet received any protective provisions and therefore cannot comment. PDT will update on the protective provisions in due course.</p>
<p>2.11 South Gare Breakwater is an area of land located on the mouth of the River Tees which is owned and controlled by PDT. This breakwater effectively protects the river and land along the river edge from damage that would otherwise naturally occur from the North Sea. In addition to being important as a breakwater and for navigation purposes (requiring maintenance, often on an unplanned basis), access is also required for pilotage, a lighthouse and radar systems and a variety of private uses such as fishermen huts, sub aqua clubs, RNLI buildings etc.</p> <p>2.12 Access to the South Gare Breakwater is taken, as of right, via the South Gare access road which runs along the edge of the former Site of Special Scientific Interest ("SSSI") before turning north to run along the peninsula.</p> <p>2.13 Part of this access track is within the order limits, located to the north of the Steel Works. The extent and type of works to be undertaken in this area is unclear but PDT must be permitted to retain access to South Gare Breakwater for operational port purposes (as well as for its tenants/licensees) at all</p>	<p>Section 6.0 of the Framework CTMP [APP-050] outlines a process for liaison between key stakeholders during the construction phase of the Proposed Development. This includes:</p> <ul style="list-style-type: none"> • establishing a channel of communication between the EPC Contractor(s) and the regulating authorities; • making all parties aware of the results of monitoring of the Final CTMP(s); • providing a route by which any complaints can be communicated and dealt with; • providing a route through which transport related issues can be identified and dealt with; and • providing prior notice of significant events e.g. delivery of abnormal loads, in accordance with standard protocols. <p>Crucially, paragraph 6.1.2 of the Framework CTMP [APP-050] states that it is proposed that a short-written report is prepared by the EPC Contractor(s) on a six-monthly basis and circulated to all key stakeholders. Any comments generated by the report will be circulated to all key stakeholders and a meeting may be held if required.</p> <p>The Applicant notes PDT's concerns with regards to access and believes that these can</p>	<p>PDT have not yet received any protective provisions and therefore cannot comment. PDT will update on the protective provisions in due course.</p>

<p>times during the Applicant's works and on completion of the Project.</p>	<p>be resolved through negotiation of bespoke Protective Provisions referred to in more detail above.</p>	
<p>2.14 The land known as Redcar Bulk Terminal ("RBT") is included within the order limits. It is unclear whether this is simply an area through which pipelines may be located or whether other uses of the land are proposed.</p> <p>2.15 PDT has rights of access along the accessway that leads to the RBT (Plots 13/1, 13/4, 13/5, 13/6, 13/7, 13/10 and 13/17) as well as holding the freehold title in RBT itself (Plots 13/1 and 13/4). Whilst the site is subject to a lease, PDT has retained the rights to use RBT where there is capacity. Temporary possession rights are being sought over the majority of plots PDT has an interest in, with the exception of Plot 13/17 over which the rights are being compulsorily acquired.</p> <p>2.16 Access to RBT is required to be maintained at all times for the purposes of PDT exercising its rights to use the berth, for example being able to import construction materials, during and after the Applicant's proposed works.</p>	<p>Plots 13/1, 13/4, 13/5, 13/6, 13/7, 13/10, and 13/17 are proposed to be used for access and construction laydown area purposes only and no permanent infrastructure (e.g., pipeline) is proposed to be built on these plots.</p> <p>The Applicant notes PDT's concerns with regards to access and believes that these can be resolved through the negotiation of bespoke Protective Provisions referred to in more detail above.</p>	<p>PDT have not yet received any protective provisions and therefore cannot comment. PDT will update on the protective provisions in due course.</p>
<p>2.17 There are a number of access roads included within the order limits, notably both public and private parts of Tees Dock road and a private road running from the Tees Dock roundabout to the BOC Middlesborough site alongside the railway line. Tees Dock Road is very busy at peak periods and is critical for PDT's operations. Any use or works to this road will need to be carefully considered and</p>	<p>Section 6.0 of the Framework CTMP [APP-050] outlines a process for liaison between key stakeholders during the construction phase of the Proposed Development. This includes:</p> <ul style="list-style-type: none"> • establishing a channel of communication between the EPC Contractor(s) and the regulating authorities; • making all parties aware of the results of monitoring of the Final CTMP(s); 	<p>PDT have not yet received any protective provisions and therefore cannot comment. PDT will update on the protective provisions in due course.</p>

<p>any impacts on PDT's operations avoided/mitigated. Would like careful consideration of potential impacts to PDT due to works impacting Tees Dock Road and a private road running from the Tees Dock roundabout to the BOC Middlesborough site alongside the railway line.= As private roads, there are also potential cost implications associated with damage/wear and tear, which will need to be addressed by the applicant.</p>	<ul style="list-style-type: none"> • providing a route by which any complaints can be communicated and dealt with; • providing a route through which transport related issues can be identified and dealt with; and • providing prior notice of significant events e.g. delivery of abnormal loads, in accordance with standard protocols. <p>Crucially, paragraph 6.1.2 of the Framework CTMP [APP-050] states that it is proposed that a short-written report is prepared by the EPC Contractor(s) on a six-monthly basis and circulated to all key stakeholders. Any comments generated by the report will be circulated to all key stakeholders and a meeting may be held if required.</p> <p>The Applicant acknowledges PD Teesports Ltd concerns regarding the Project's use, and the associated maintenance cost implications, of the private roads within the Order Limits. The Applicant is willing to discuss viable solutions to these concerns.</p> <p>The Applicant notes PDT's concerns with regards to access and believes that these can be resolved through the negotiation of bespoke Protective Provisions referred to in more detail above.</p>	
<p>2.19 An emergency access road for the petrochemical industrial cluster at Seal Sands is located off the A178 Tees Road to the north of Greatham Creek.</p> <p>2.20 PDT own the freehold over areas along the emergency access road included in the</p>	<p>The Applicant is planning to use Plots 9/1, 10/17 and 10/29-33 for access only.</p> <p>The Applicant notes PDT's concerns with regards to access and believes that these can be resolved through the negotiation of</p>	<p>PDT have not yet received any protective provisions and therefore cannot comment. PDT will update on the protective provisions in due course.</p>

<p>order limits, including Plots 9/1, 10/17 and 10/29-33.</p> <p>2.21 This emergency access (which forms part of the wider Seal Sands emergency plan) is required to remain unobstructed at all times. PDT requires further details of any proposed works or access proposals that may interfere with this access.</p>	<p>bespoke Protective Provisions referred to in more detail above.</p>	
<p>3.3 PDT would encourage the Applicant to engage with it as early as possible in relation to any private treat acquisitions that it may decide to pursue.</p> <p>3.4 PDT propose that the DCO include protective provisions to offer protection in relation to PDT's interests. Aside from PDT's interests, there must also be protection from the various businesses around the Port, who rely on the Port's uninterrupted operation.</p> <p>3.5 PDT proposes to work with the Applicant to agree suitable protective provisions.</p> <p>4. OBJECTION</p> <p>4.1 For these reasons PDT must currently OBJECT to the DCO application. It is also of the view that the Applicant has not demonstrated that the proposed compulsory acquisition by the Applicant can be undertaken without serious detriment to PDTs undertaking (as required by section 127 of the 2008 Act) and should not therefore be approved by the Secretary of State in its current form.</p>	<p>The Applicant and PDT have agreed that the NZT DCO Protective Provisions are a suitable starting point subject to making any necessary updates to reflect the specific nature and interactions of the proposed development.</p> <p>The Applicant and PDT have agreed that the NZT DCO Protective Provisions are a suitable starting point for negotiations on H2Teesside protective provisions, subject to any amendments required to reflect the specific nature and interactions of the proposed development.</p> <p>The Applicant has agreed to undertake an initial legal and technical review of the NZT DCO Protective Provisions in this regard and will issue draft Protective Provisions to PDT shortly for review.</p>	<p>PDT have not yet received any protective provisions and therefore cannot comment. PDT will update on the protective provisions in due course.</p>

<p>4.2 It is acknowledged that discussions with the Applicant to date are ongoing and that the concerns identified above should be capable of being addressed through protective provisions, amendment to the DCO including the removal of land plots and revised requirements. PDT will update the Examining Authority as soon as possible in this regard.</p>		
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