

SABIC UK PETROCHEMICALS LIMITED (URN 20049383)

SABIC TEES HOLDINGS LIMITED (URN: H2TS-AFP121)

SABIC PETROCHEMICALS BV

APPLICATION BY H2TEESSIDE LIMITED FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE H2TEESSIDE PROJECT (EN070009)

DEADLINE 3

SABIC'S RESPONSE TO

"DOCUMENT REFERENCE 8.11.6: RESPONSE TO EXQ1 COMPULSORY ACQUISITION AND TEMPORARY POSSESSION" [REP2-027]

No.	ExQ1	APPLICANT'S RESPONSES	SABIC'S RESPONSE
Q1.6.9	<p>The scope and purpose of the CA Powers sought.</p> <p>Paragraph 6.1.17 of the SoR [APP-O24] states that Articles 23 and 26 of the draft DCO [AS-O13] give the Applicant the Power to override easements and other rights.</p> <p>Please provide details of the rights that are anticipated to be extinguished.</p> <p>Please confirm that all parties or people with rights to be extinguished have been identified and detail how negotiations are being undertaken with people who are not listed in the Schedule of Negotiations and Powers Sought [APP-O29].</p>	<p>The Applicant's aim is that the interfaces with other parties' rights and land can be addressed through agreements, rather than relying on the use of compulsory acquisition powers pursuant to the DCO. Those powers are however required in order to ensure that the Proposed Development can be delivered.</p> <p>In respect of point i), At this stage, due to the ongoing design progress, the Applicant is unable to provide specific examples of rights that will need to be extinguished. The Applicant is committed to avoiding the extinguishment of rights wherever possible, and to suspend rights only where interference is necessary to facilitate the construction of the project. If, in circumstances, the extinguishment of rights becomes unavoidable, the Applicant will look to provide equivalent replacement rights where</p>	<p>As the Applicant is not able to say whether it will need to extinguish or suspend SABIC's rights, or guarantee that it would provide replacement rights SABIC is unable to respond to the ExA to explain what the specific effects of such any particular extinguishment or suspension would be.</p> <p>The Applicant has not provided detail sufficient for SABIC to be content that its commercial operations will not interrupt SABIC's operations. As is explained in paragraph 5.1.2 of SABIC's Written Representation [REP2-100], even a brief interruption would require a shutdown and restart of SABIC's operations which would take between two and three weeks with an anticipated cost to SABIC running into the tens of millions of pounds. This is not including the reputational damage to SABIC and the</p>

	<p>Please explain how rights will be reestablished for people who will continue to require them after the construction phase is complete.</p> <p>Please detail if and how rights holders will be consulted on temporary and/ or permanent alternative routes etc when rights are suspended or extinguished.</p>	<p>feasible to minimise disruption to affected parties and/or provide compensation.</p> <p>In respect of point ii), At this time, no specific parties have been identified whose rights will be extinguished. For parties not listed in the Schedule of Negotiations and Powers Sought, if and when they are identified, the Applicant will follow a similar process of engagement and negotiation the parties are fully informed and fairly compensated where necessary.</p> <p>In respect of point iii), for those persons who have had rights suspended during the construction period, these will only remain suspended and unenforceable for as long as the Applicant remains in possession of the land (as set out in Article 26(4)). Once the Applicant ceases to be in possession of the land then the rights would no longer be suspended and would be re-established.</p> <p>In respect of point iv), Where interference is necessary, rights holders will be consulted on both temporary and permanent alternative routes or solutions, with the Applicant seeking to minimise disruption, and the Applicant's preferred route is to enter into a voluntary agreement. Feedback from rights holders will be considered, and the Applicant will maintain clear communication to ensure that any arrangements meet the needs of those affected.</p>	<p>consequential losses other parties might seek to recover from SABIC.</p> <p>The Applicant's response is therefore inadequate and does not provide either SABIC or the EXA with any reassurance that SABIC's own nationally significant activities have been appropriately considered by the Applicant and no balance of competing interests has been carried out by the Applicant. The Applicant has failed to make out a compelling case in the public interest for the wide powers it seeks, which will cause significant detriment to SABIC's undertaking.</p> <p>Unless the Applicant is prepared to agree to protective provisions which limit the scope of these powers, it is difficult to see how the Secretary of State can properly undertake the balancing exercise to determine whether there is a compelling case in the public interest for granting the powers of extinguishment or suspension of private rights.</p> <p>The only cogent way to make this assessment would be to assume that the Applicant will exercise such powers to their fullest extent to remove SABIC's apparatus such as to prevent its continued operations and to place this outcome into the balance against the benefits of the scheme. The same applies to other operators in and around the Order limits. The Applicant will have to demonstrate it has the wherewithal to provide adequate compensation to all such parties as are potentially affected, or agree to restrict the breadth of the powers it seeks.</p> <p>By extension it is unclear whether the Applicant has taken into account this "worst case"</p>
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			assessment in its Funding Statement [APP-025]. Equally it is unclear to what extent there is recognition that the guarantee or security provided by article 47 of the dDCO [REP2/004] must be required to cover compensation paid in respect of business extinguishment in respect of SABIC and other operators in and round the Order limits.
Q1.6.17	<p>The scope and purpose of the CA Powers sought.</p> <p>Paragraph 11 of the CA Guidance states that "...The Secretary of State (SoS) will need to be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development..." Please detail how the ExA can be satisfied that this is the case, please reference locations where pipeline corridors appear to exceed the guideline construction widths required as detailed in the SoR [APP-O24].</p>	<p>This explanation has been provided in the technical note on pipeline corridors provided as an action arising from Issue Specific Hearing 1 (ISH1) (Document reference 8.13).</p>	<p>Paragraph 11 of the CA Guidance must be read as applying not only the acquisition of land, but also of rights and the taking of the power to extinguish and suspend the rights of third parties.</p> <p>If the Applicant is unable to identify what rights it needs to extinguish then it is difficult to see how they can satisfy the Secretary of State that the powers being sought are "no more than is reasonably required for the purposes of the development".</p>
Q1.6.18	<p>Whether there is a compelling case in the public interest for the CA of the land, rights and powers that are sought by the draft DCO.</p> <p>The SoR [APP-O24] paragraph 13.1.6, states that the Applicant considers the substantial public benefits from the proposed CA would outweigh the private loss that would be suffered by those whose land or interests will be acquired, and therefore justifies interference with such land or rights.</p> <p>However, whilst section 7.0 outlines the benefits delivered by the Proposed Development and its objectives, there is little mention of any</p>	<p>The Applicant acknowledges the concerns regarding the balance between public benefits and private loss, as raised by the Examining Authority.</p> <p>While the Statement of Reasons outlines the substantial public benefits of the Proposed Development, and although a specific case-by-case assessment of each affected persons private loss has not been documented in the SoR, the effect on individual affected persons and their private loss has been considered throughout the design and consultation process. The Applicant has undertaken efforts to minimise private loss as far as reasonably possible, ensuring that disruption to landowners</p>	<p>See the answer to Q1.6.9 above.</p>

	<p>consideration given to private loss. Please provide further explanation in relation to the following:</p> <p>What assessment, if any, has been made of the effect upon individual Affected Persons and their private loss that would result from the exercise of CA powers in each case.</p> <p>If no such exercise has been undertaken, please explain why it is considered unnecessary to do so in this case?</p> <p>What is the clear evidence that the public benefit would outweigh the private loss and how has that balancing exercise between public benefit and private loss been carried out?</p>	<p>and occupiers is reduced. However, where private loss is unavoidable, such loss will be addressed through compensation.</p>	
Q1.6.21	<p>Whether there is a compelling case in the public interest for the CA of the land, rights and powers that are sought by the draft DCO.</p> <p>What weight has the Applicant attached to the compensation that would be available to those entitled to claim it under the relevant provisions of the national Compensation Code in its assessment of private loss?</p>	<p>The Applicant has given appropriate weight to these compensation provisions, taking into account that affected parties would be fairly compensated in accordance with the national Compensation Code. This has been fully accounted for within the Property Cost Estimate which has been taken account of within the Funding Statement [APP-025], which also includes consideration of compensation for land take and rights, disturbance, Section 10 and Part One claims and Blight.</p>	<p>See the answer to Q1.6.9 above.</p>
Q1.6.63	<p>General, Detailed or Other Matters.</p> <p>Please provide a plan which shows all access roads, private roads and other rights of way which will be subject to extinguishment of existing rights or will have rights changed. For each of these roads. Please detail who currently has rights of access over these. Please also detail how access will be provided for those who</p>	<p>The Applicant does not anticipate permanently extinguishing existing rights over access roads, private roads or other rights of way. Where new rights are being sought by the Applicant over such roads these are anticipated to co- exist with existing rights. See also the response to Q1.6.9 above in relation to extinguishment / suspension of rights.</p>	<p>The Applicant is seeking powers which would allow it to close private roads. If it is not seeking to extinguish or suspend third party rights over these roads or otherwise exclude access it should make clear, express provision guaranteeing the continuance of these rights and continuous access. Otherwise it should identify where it is proposing to extinguish or</p>

	require it, please reference RR comments where they have been made regarding access.		suspend third party rights and provide a justification for doing so.
Q1.6.65	<p>General, Detailed or Other Matters.</p> <p>Please justify the land take for the temporary construction compounds detailing the need for the size, quantity and location. Please explain how alternatives were assessed and the reason for selecting those shown.</p>	<p>The Applicant would refer the ExA to the answer provided for question 1.6.14 regarding the extent of the areas with temporary rights for construction compounds being not of excessive size for the project.</p> <p>The Applicant plans to have one main compound south of the Tees, at the main H2Teese side plant, and one main construction compound north of the Tees. The Applicant also plans to have one smaller satellite compound on each of the pipeline branches.</p> <p>The main compound at the H2Teese side facility size was selected to have space for the following: earthworks storage and treatment area, modules and material receiving area, batching plant, covered storage, workshops and stores, fuel, parking, offices and welfare, security and vehicle holding area. Note that the compound north of the Tees considered storage of line pipe for the hydrogen pipeline instead of modules for the H2Teese side plant.</p> <p>The satellite compound sizes were more dependent on land availability, but at a minimum to include the following: offices and welfare, car parking, general storage including pipe, plant and fuel.</p> <p>Alternatives were assessed by considering the availability of vacant land of sufficient size, proximity to the construction areas and taking account of consultation with landowners. The locations selected for construction compounds</p>	<p>SABIC has expressed its concerns around the taking of its land at Wilton for a construction compound (Work No.8) and that there is other land at Wilton which is not under active use which could have been used instead.</p> <p>In particular SABIC has not been able to identify where in the Application Documents the Applicant provides details of what sites it has assessed as alternatives to those chosen for construction compounds. SABIC considers that there are other more appropriate sites at Wilton which should have been considered.</p>

		were those that aligned with the above requirements.	
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Womble Bond Dickinson (UK) LLP

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