



Hearing Transcript

Project:	H2 Teesside
Hearing:	Recording of Issue Specific Hearing 2 (ISH2) - Part 3
Date:	14 November 2024

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Welcome back, everybody. The time is now 1:30pm

and I'm resuming this

issue specific hearing into the development consent order. Can I ask the case team to confirm everyone who wishes to be here has joined back and live streaming and digital recording for this event has continued. Thank you. Or recommenced. I should say

I'm now going to go on with Agenda Item four, which is schedule two to the draft development consent order

discussion. Stay on. This is on the wording, rather than the content. I we're not proposing to talk about the specifics of an issue, but rather we're looking at the requirement and the way it works, and whether it would secure the mitigation or manage the works in a way that are necessary,

bearing in mind the applicants change requests, I just want to remind everybody that we're not Talking about that version of the DCO, the development consent order. We're actually talking about the one that was submitted at deadline two, which is rep 2004,

and bearing that in mind, I would ask the applicant to provide a overview with the requirements based on that version. Please. Thank you, sir. Harry wood Philpott, on behalf of the applicants before I do that. So can I just briefly revisit a point that I made just before lunch, which was in relation to the list of parties with whom it's anticipated and will be

negotiating and providing protected provisions, as you'll have observed during that I was provided with a list which I then read out, and although I entered the caveat that we provide

a list that you could rely on in due course over lunch, it's become apparent that some of the people on that list are not, in fact, people with whom we're seeking to enter protected provisions that will probably been apparent to you as it started to become apparent to me. Apparent to me, but having now discovered that, I wanted to put that on the record so you weren't left going away wondering why that is rather than seek to repeat that. Now we'll be providing a correct and up to date list in our Britain summary, but I just wanted to explain that that doesn't,

won't include all of those, but it doesn't obviously take away from the reassurance I provided to samic that they're on there on the list again. Didn't want them to be worried that that had that implication for them. But forgive me for just making that clear some but I didn't want you to be left with a false impression. No, I'm grateful for that, and it actually saves me actually drafting a written question about some of the ones that were on your list. So thank you very much.

So, so, yes, um, having got that out of the way, I'll provide an overview in terms of the requirements, and what I propose to do is make some introductory comments about the approach taken to the requirements. And then, depending on whether you would like me to do so, I can either leave the individual requirements to any questions you may have, or I can summarize some of the more notable ones. But I'd only want to do that if it's actually of any practical benefit. Otherwise, I'd just provide the introductory comments. No, the introductory comments are fine, because then we'll go through each individual one anyway, and if you need to interject, then you can provide any additional information when we get to each individual item. So if you do the general overview, I'll be grateful. Thank you, sir. So there are 33 requirements currently in schedule two to the draft development consent order. These are, as you'll be aware, akin to planning conditions on a grant of planning permission. Where necessary. They secure mitigation set out in the environmental statement, and they need to be discharged by the relevant planning authority pursuant to the procedure in schedule 13, the point in the in the process of undertaking the authorized development by when each must be discharged is specific and appropriate to the matter being secured. There are a number of requirements which allow for permitted preliminary works to take place prior to their discharge, and those are requirements, 367-910-1115,

1618, 2021,

2224 2526 and 27

and the rationale for this approach is to enable the applicant to undertake advanced works, which are early works considered to be minor and therefore appropriate, to be undertaken prior to the discharge of pre commencement DC.

So requirements in order to mobilize the construction workforce undertake surveys and matters of that sort. The types of works that are encompassed within this definition are identified in the definition that's provided in Article Two of permitted preliminary works. There are a number of limitations and controls on this flexibility. So the development consent order prevents a range of site preparation works such as demolition or de vegetation from taking place before the relevant planning authority has approved measures to protect the environment. So for example, in requirement four, no part of the authorized development may commence until the landscape and Biodiversity Management Plan has been submitted to and approved by the relevant planning authority, there is no exception for permitted preliminary works in that respect, and therefore that requirement has to be discharged before those works can take place. It's also important to note that requirement 15 states that no such works. No part of those works may be carried out until a PPW construction environmental management plan for that part has been submitted to and approved by the resident planning authority, and it requires any plans submitted to be in substantial accordance with the framework construction, environmental management plan, to the extent that is is relevant to those works. So that's the the way that the PPW are dealt with in the requirements. Some of the requirements allow for their discharge in relation to a part of the authorized development, and that provides the applicant with flexibility so that elements of the development can be brought forward as they are ready to be discharged, rather than having to wait for all elements to be brought forward together to be discharged. And then finally, to note that the order land falls within the administrative boundaries of red car and Cleveland Borough Council, Stockton on tees Borough Council and Hartlepool Borough Council. And for works that fall across different boundaries, which would include work number six, related development under works nine and 10, the requirements would need to be discharged by each authority or the relevant part of the works that sits within their respective areas. And that's what I would say by way of introduction, and some themes that need to be considered across the requirements as a whole. And then I won't go through individual requirements at this stage, that's fine. Thank you very much.

So just moving forward from that again, lots of detail and agreement

amendments have resulted from the first written questions effectively, and a number of matters, especially around submissions of various statutory undertakers, are still under discussion between the applicant and those parties, and primarily thinking about Natural England, for example, there which may have implications in terms of the requirements and what's contained within them. So we can't really address those at the moment, because we've got to get those measures resolved to know what would what you're doing.

But

we still, I still propose to go through the requirements.

But in reality, I've again, got very few questions because of the responses I've already received from the multiple parties. So what I really want to do is to open this up as an opportunity for interested parties to raise anything they specifically want in terms of a individual requirement that they don't think is being dealt with or they want to make a specific point on.

Again, I'd like to emphasize, if we don't ask a question about a specific requirement, it's not because we consider all the matters to remain resolved in relation to the issues that are being dealt with,

but it's really just in terms that we're comfortable at this present time with the wording as they're set out, but we may still ask subsequent questions as a result of further submissions. Um.

Before I start with requirement one, I just wanted to touch on the comment that's been made by the South Tees group in relation to what they've termed as missing requirements that are included within the net zero Teesside development consent order. And when you compare it against the H 2t, side development consent order. And I think there's specifically items related to

using the referencing for Net Zero Teesside. Requirement seven, which is highways access. Requirement 19, which is construction workers travel, travel, travel plan. Requirement 21 control of operations, noise controller. 24 waste management on sites and construction wastes. Requirement 26 which is combined heat and power. Requirement. 37

effluent nitrogen, effluent nutrient nitrogen, safeguarding scheme and requirement 38 which is consultation with semcorp and TG entities.

As I say, I know that's not in this development consent order, but that those are the differences that you can see when you compare the two documents.

Some of them, I think I know the answer to, because, having been a planner for a very long period of time and having read the DCO versions it, it's it's clear to me why some of them aren't included. But is that something you have the ability to to explain now, why that those items are excluded? Or is that something you would want to come back on? So I think in order to make the exercise efficient, it would be better to give you

a table in writing which identifies what is said to be a missing requirement and against that explains the position, so that there are some examples where I, you know, I have instructions, but I think it would be,

frankly, a better use of time to give you a complete answer that would allow SDG to have an opportunity to consider those matters. And if there are any which they still think ought to be included, then we can narrow that down and focus attention on on those I'm happy with that approach. Mr. Philpott, I can then compare it to the table I've made and see if it works.

Mr. Henderson, is that something you're happy with, or is there something specific you wanted to make about these points? Thank you, sir. Tom Henderson, for STG, yeah. We're content with that approach. Perhaps to assist it, I would make just two points. Now,

firstly, I think in relation to the construction workers travel plan, having followed through the applicant's logic and had regard to the management plan, we can see they've got a different approach which achieves substantively, the same outcome. So we're, we're content with that one. Another one that we just wanted to specifically flag was in relation to the design and approval of vehicular access. Our understanding there is that the applicant's position is that that's dealt with by Article 12, and therefore the requirements not necessary. But we we think the requirements, or the requirement would do something discretely different, which is that

article 12 of this order merely provides that accesses must be completed to the reasonable satisfaction of the relevant street authority, but it doesn't talk about design. And our point is that the the upfront design needs to be approved, and then that design needs to be completed to the body satisfaction. So we do think they do perform

different functions, and perhaps that would assist the applicant in their deliberations on that. Maybe that's something that you can resolve between yourselves to a suitable and amicable solution. But I'm assuming that's requirement seven that you're specifically referencing there, yes, yeah, okay, Mr. Philpott, so that that's helpful clarification. We can take those two points on board in our table. Thank you. Okay, thank you.

Right.

So just moving forward, then again, this is going to be, I apologize for this, because it's going to be a ramble through all of the requirements where I've got substantially no questions, but I'm going to open it up to everybody, so we've got to go through them all. Apologies if you're going to get bored with this. But so requirement one is commencement of the authorized development. Again, I've got no questions. Does any interested party. Wish to raise anything with regard to cop requirement one,

I've got a hand up from Mr. Nesbit.

Thank you, Sir Peter Nesbit, on behalf of semcorp utilities, UK Limited. I'm sorry i.

Yeah, I was putting my hand up actually for the previous point, just to add a more general point, but, but it's just as easily dealt with here.

It was mentioned

that one of the differences between these requirements and those contained in the net zero Teesside order

is in relation to Consultation requirements for semcorp.

I think what might assist is if Mr. Philpott mentioned a note where the applicant might respond on these points. I think what would help is if I

could set out for semcorp Which of those requirements they would like to be consulted upon. Perhaps the applicant could respond to that in the note as well, and then I don't have to intervene on each and every requirement as we go along. I can leave it at that. Yeah, it's fine by me. If you wanted to just do that briefly, sir,

thank you.

Sorry I was proposing to do that in writing. If, okay, better, that's fine. I misunderstood you. Then I thought you were going to say you were going to list them now. So no, you didn't. I wasn't very clear, sir, but I intended to say in writing. Thank you. No writing. Writing is fine, and I'm assuming you mean, but by deadline for so yes, sir, can I? Harry was talking about half the applicant. Can I make a plea please, in order to try and speed things up, if it's possible for Mr. Nesbitt to supply us with his list ahead of deadline for that would help us, and we can then deal with it much more quickly, deadline forum. That's what I'm hoping. If we can get it quickly, that it's easily added into the table. Mr. Nisbet, is that something you can achieve? Can you submit it early? And yes, you know, I giving them enough time to actually give it some thought and respond, and so they can respond by next Wednesday? Yeah, that's

a very fair request, and we shall do so as soon as possible. Okay, thank you very much. Mr. Nisbet, thank you.

So I pre jumped on there. I am going to start properly with requirement number one now.

And anybody in the room wants to talk about requirement one? Anybody online? The answers, no, by the looks of it. Requirement two, notice to start and completion of commissioning. Again, I've got no questions at this time, but does any interested party wish to make any comment with regard to requirement two,

nothing in the room and nobody online. Requirement three, detailed design,

just a just, just a point for you to take away here and perhaps have a look at. You don't need to respond now, paragraph eight relates to work number six, but unlike the other paragraphs, this requirement makes no reference to the nature of the works

or with the other specifically headlines sort of what they are, so drainage, for example, or whatever.

But this one relates to above ground installations, and the same occurs in paragraph 10, related to works 7b so I just wondered if that was something you should look at and perhaps include reference to the above ground installations in paragraphs eight A and 10 a thanks,

so we'll take that away. Yeah. Thank you. Anybody else wishing to comment on requirement three, which detailed design,

but no indication the room? Nobody's indication online. So we're going to move on to requirement four,

landscape and Biodiversity Management Plans. Does any interested party wish to make any comments regarding requirement four?

I've got nothing in the room and nobody online, so I'm going to move on to requirement five, which is public rights of way. Again, same question, does anybody online or in the room wish to make any observations with regard to this requirement

no indication. Requirement six, external lighting. Again, same question. Does any interested party wish to make any comments or observations in relation to requirement six,

nobody in the room, nobody online. Requirement seven, which is means of enclosure. Again, I have no questions to follow up on, yet,

does any interested party wish to raise any comments or concerns regarding requirement

seven? No indication on either line or in the room. Requirement eight, Site Security. Again, same question, does anybody, any interested party wish to make any comment or observation?

Nobody and nobody online,

requirement nine, surface water and foul sorry, surface and foul water drainage. Does anybody wish any interested party wish to make a comment?

Or observation relation to right. Requirement nine,

No, neither parties right. Okay. Requirement 10, fire prevention, any interested party wish to raise any comments or observations?

Perfect. Thank you. No response. A requirement 11, flood risk management, sorry, flood rigs, risk mitigation, again, same question. Does any interested party wish to make any comments or observation regarding requirement 11?

Nothing in the room. Nobody online. Requirements 12 related to contaminated land and groundwater. Does any interested party wish to raise anything regarding current requirement 12,

nobody in the room, nobody online. Requirement 13, archeology. Again, any interested party, do you want to raise your hands if you want to say anything regarding requirement 13?

No. Requirement 14, is protected species. Does any interested party wish to make any comment on protected species?

Nope, no indication. Requirement 15, construction, environmental management plan, again, same question. Does any interested party wish to make any comment or observation?

Ah, yes. Mr. DAG,

Stephen dag on behalf of Savic. So just a point that we raised in our deadline three,

deadline three response for Savic

in relation to HDD, that is to say, horizontal directional drilling. There are a number of crossings where the applicant has indicated that it intends to use HDD methods, but we've been unable to find any direct form of requirement to secure that.

Certainly there is no it doesn't appear to be listed in schedule one under works to describe the works in that way. There isn't a specific requirement, and I raise it under the construction Environment Management Plan requirement, because

that plan does make reference to

HDD techniques,

and those references are sign posted in sub x,

covering letter, rep three, dash 022,

so

the

this is a particular relevance to sabbag In terms of the river tease and continue deliveries of its raw feed stock for its industrial process.

And

if through you so I we can kind of raise that, that question about about how it is secured, what requirements are are and will be in place. Thank you. Thank you.

Mr. Philpot, yes, my understanding is that the CMP does have provisions which deal with HDD

and identifies the process of engagement with landowners where it's to be used, and for managing practical and environmental issues associated with it. I don't understand that it identifies where it must be used. But it I would suggest that this is not a concern which would lead to either amendment of requirement 15 or to the need for a new requirement that pinpoints exactly where it is to be used. It is eminently the sort of thing that ought to be dealt with by provisions which are essentially designed to give a framework or resolving issues such as that, as the process, as the design, and therefore the how the construction is going to be carried out, develops post DCO as a point, as opposed to trying to fix it now. So in principle, that's how I suggest this matter ought to be resolved. It's not a matter of pinpointing and pinning down in the DCO so that it is inflexible now where HDD must be used. It's more about ensuring that there is a process put in place through the DCO and through the CMP and protective provisions that would govern

the choice of construction method and engagement of landowners where relevant in questions such as where HDD.

Place that's by way of an overview on approach. If there's anything specific in terms of how one frames that and what shape that ought to take, that's a matter which I would hope we would engage outside the examination in terms of what drafting might be appropriate in relation to that specific aspect of the construction process. Okay, Mr. Dag, do you want to respond?

Thank you, Sir Stephen DAG, on behalf of SABIC

so the the as we set out in

in the deadline three, response that I referred to earlier, the the construction Environment Management Plan does make Express reference to one site at cowpen beauty Woodland Park, where it talks about trenchless measures being used.

I think that that wording

should probably be tweaked slightly. But the the principle of that control is already set out in relation to one of the crossings, ironically, neat that isn't in relation to the two crossings which SABIC is concerned with, either one at graven Creek, and also the one to be used under the river under the river teas. We've proceeded so far on the basis that the application has always

referred to an intention to use HDD techniques, and we've broadly assumed that that would be the case. But if the applicant, what I'm not clear about is whether the applicant is now saying that there is a possibility that

the Graton Creek and or tees crossing will not be delivered through HDD.

So my I'm going to ask Mr. Fox just to respond in terms of the methods that might be employed, because that is specifically

dealt with in the documentation. And I think it's probably better rather than seeking to be the ventricular dummy just to pass over to the person who controls me. Okay,

Mr. Fox, on behalf of the applicant, thank you. So yes, does talk about trenchless crossings? Obviously, that hGD is only one of multiple different methods that can be done for trenchless crossings, including microborg tunnels or Oracle boring and at various points it does make commitments about the fact that we will use trenchless technologies, for example, at the larger river crossing. So Gresham Creek and then Calvin beauty was identified because through our ES work. So there's some specific environmental constraints

pushing us in direction of making certain commitments, but I think it's the difference between saying trenchless and HDD. And I don't think, apart from potentially carbon beauty, we've said specifically, we will definitely use HDD in any one

location. Most certainly, from my reading of the documentation I've seen so far, the two main ones are an option between micro board tunneling and hydro directional drilling,

that's, that's at greatham Creek and

under the river tees. Is that correct? So, so that's the two that you specifically identified there. You've not identified any other option in relation to those two at those two locations. Do

Yes, yes, I think that's correct. Yeah, fine. So the so the confusion related to trenchless crossings and the multiple different techniques you could use for trenchless crossings is purely related to CALP and Bewley. Is it?

Sorry, as Mr. Foster, the applicant at the moment, then Kemp says that we will use trenches technologies at

carbon bill, right. Okay, Mr. Dang does that make it any clearer for you? Thank you, sir. Stephen DAG, on behalf of SABIC, perhaps I've muddied the water slightly in terms of my use of the term HDD, and it shows a slight lack of technical knowledge, but I think, I think it is really the the commitment to use trenchless methods, rather than to pin the applicant down, to use any particular method. Our understanding of the application is that it will not involve digging a trench across the rivities. That's probably everyone else's understanding.

If that is the case, then, in our view, because of the importance of that, it should be controlled. Somewhere within the application there is wording in relation to the cowpen example which gives an enforceable commitment in that regard to and I think what we would be.

Looking for, and what we would expect would be a similar commitment in relation to those other two crossings in an express and enforceable

way applicants that is, that is within there. So the framework camp specifically says that the major river crossings will be done by trenches technologies. And then goes on in page 60 to talk about the various measures that we put in place to control those trenches crossings, including a line that says, designing the trenches crossings profile to pass an appropriate depth below the watercourse, greater than 10 meters of gratin Creek, and greater than 25 meters for the river. Tease

understood. I think the commitments are clear, sir, Mr. Dang Do you want to go away and have a look at what those specific paragraphs say? And then, if you want to continue to Raise it, raise it in writing.

Stephen DAG, on behalf of SABIC, yes. So if we can be referred to, possibly those paragraph numbers were given and I didn't quite catch them, but if you can be referred to specific paragraphs, then we're quite happy to go away and have a look at that and to come back if we still do have concerns. Mr. Fauci, outside of this discussion, can at some point you talk to Mr. Dag and or get one of your colleagues to do it and give them the references. Absolutely, sir. Thank you. Applause.

Yeah,

all right. Does anybody else wish to raise anything with regard to the construction environmental management and requirement 15?

Got no indication. So I'm going to move on. Requirement 16 is protection of highway services, does any interested party wish to say anything with regard to highway services? Requirement 16, that's anything in relation to concerns or observations you want to make,

no indication online or in the room. Requirement 17 is extended planned shutdown maintenance period. Does any interested party wish to raise any concerns or comments with regard to requirement 17, please.

Nobody in the room, nobody unlike Mr. Fox. Mr. Fox. On behalf of the applicant, I just wanted to add I know, I know they're not here, but just to give you some reassurance that national highways had raised issues around that requirement, and a couple of others on traffic related matters. And we just reassure that we're having the discussions with them on that, and that we are circulated at sacg with them, which would be submitted to the deadline for so you can understand the latest position, but just so you're aware on that, yeah, just in terms of national highways, they've sent an email at 1130 ish today saying they're not attending today, so

we aren't going to introduce it as an additional submission. It's going to be included at deadline before just so you're all aware, but they're effectively saying that that's they appear to be saying that they're satisfied with progress in regard to the statement of common ground at the moment, ground at the moment, that was my initial reading of it, but I've only skimmed it. So,

right? Anybody else with regard to

we were on requirement 17 when we extended plan shut down Winston's period.

Nobody Okay, moving on. Requirement 18, construction traffic management plan. Any interested party wishing to make any observations or comments on the construction traffic management plan,

I've got a hand up from Miss Knowles, please.

Thank you. Tabitha Knowles, on behalf of Anglo American, Anglo American seeks to be included as a specified party in 18 f such that the applicant's required to engage with it to manage cumulative construction transport impacts when traffic management is required. The applicant has suggested that Anglo American not be included in engagement on cumulative construction transport impacts, noting that this is for BP projects only. We are of the view that engagement is required and would welcome further engagement dialog with the applicant on this matter. Thank you. Thank you, Mrs. Knowles, I'm sure that the applicants noted that, do you want to respond, Yes, we have

chosen to put this forward in terms of the construction traffic management plan

as something which must be included within the plan, simply because we have here the rather unusual situation where we've got three projects near, very close by to one another that happen to be promoted by BP entities. And so there is rather.

Uniquely an opportunity as one would hope there would be to be taken here, for those parties to

coordinate, and for there to be a mechanism to ensure they coordinate, to manage their impact. That's a very different situation from making our DCO and my client as the undertaker responsible for managing the impact of another project by a company which isn't part of its family of companies, and effectively being potentially beholden to them because it can't make progress until it's had this plan approved, and if it has to achieve cooperation with another developer who may have conflicting interests, and they can proceed, and we can't, because we can't get their cooperation on this plan, that Would plainly be inappropriate. So whilst, of course, there will be protective provisions which require the parties to work together to iron out any issues where they overlap that should not seep into requirement 18 or other similar measures, which effectively then passes responsibility for their impact, their cumulative impacts, onto a third party.

Snows. Do you want to respond? No further comment at this stage, only to say something similar, as before that we've only just received the protective provisions first draft to get an understanding about how that might be captured there. Okay, understood. We look forward to your response on those protective provisions.

Does anybody else wish to say anything with regard to the construction traffic management plans?

I've got no indication in the room or online not going to move on to requirement 19 construction hours.

I've noted the responses on this in regards to first reading questions

I'd like to ask if any local authorities, or whether the

anybody else, any other interested parties, including South East,

would like to make any comments in relation to this requirement? I'm specifically thinking about the construction hours. I

understand what's been said in the responses to our first written questions. But I'd just like to see whether or not any of the local authorities or southeast group wants to comment on 7am till 7pm Friday, Monday to Friday, 7am to 1pm Saturday, with the mobilization, mobilization, demobilization, mobilization periods being one hour before and after those mentioned times.

No indications in the room, no indications online. In that case, I'm going to move on requirement 20, control of noise construction. Does any IP? Any interested party wish to make any reference in regard to requirement 20?

But no indication in the room, no indication online requirement. 21 piling and penetrative foundation design. Does any interested party wish to make any comments or observations in relation to this requirement?

No indication in the room or online requirement. 22 restoration of land used temporarily for construction again. Does anybody wish to raise any comments or concerns regarding this requirement?

No indication in the room or online. Oh, I've got Miss Knowles, so apologies. Thank you. Tabitha Knowles, um, on behalf of Anglo American. Um, Anglo American seeks to assure that at points of interface between Anglo American's operations and the proposed scheme it's consulted on, as regards scheme of restoration for land use temporarily, Anglo American's role in such consultation will be important in the context of its liabilities under the environmental permit, as touched on previously, the applicant has suggested that this matter can be addressed by protective provisions. Anglo American maintains its concern with this requirement until the protective provisions have progressed sufficiently and adequately to understand if this matter can be resolved.

Okay, thank you very much. Mr. Knowles, Mr. Philpott, yeah, so yes, the short answer is, it's right that it will be better dealt within the protected provisions, which will provide them with at least the same protection, likely more than if they were just engaged as consultee.

Along with others as part of requirement 22 so I suspect this is one where, ultimately, when we get to detailed consideration of the protected provisions and it will fall away. Okay, thank you. Ms Knowles, did you want to say anything else? Nothing further. Thank you. Thank you.

Anybody else, any other interested party on requirement 22 no

indication. So I'm going to move on to requirement 23 aviation warning lights. Any interested party wishing to make any comments or observations on this requirement?

No indication, in the room or online. Requirement 24 air safety. Same question, does any interested party wish to make any comments or observations?

Nothing in the room, nothing online. Requirement 25 is the local Liaison Group. Does any interested party wish to make a comment or observation regarding this requirement?

Moving on

to requirements, Oh, Mr. Knowles, sorry. Jumping too far ahead of myself again.

Thank you. Tabitha Knowles, on behalf of Anglo American, the applicants noted that Anglo Americans involvement in this would be welcomed so that would address address our previous concerns with this requirement, and it's much appreciated. Thank you.

Understood Mrs. Knowles, Mr. Philpott, do

you want to respond slightly unclear about that? I had understood the position to be that the local Liaison Group is specifically for local residents and local organizations such as councils, who have a public interest role in protecting the interests of local residents, as opposed to something which will be designed to deal with the concerns of commercial Neighbors, which will be dealt with through protective provisions. And I strongly suspect that if it did start to turn into a an organization or a group which was dealing with their concerns, it would be less likely to meet its objective of providing a suitable forum for local residents and associated organizations to articulate and get responses to their points and to understand what's going on, because they will be requiring quite different things understood to a commercial developer. So if there's been some cross wires about that,

we can deal with that outside the

outside the examination, certainly outside the hearing, but I strongly suspect that that would not be the most effective way of dealing with the need to liaise and coordinate with Anglo American and that I don't think it would be in anyone's interest to go down that route, if that, if we can take that up outside The examination, I just suspect that ultimately, all parties will agree that's probably not the right forum. Yes, I mean, I think I would tend to suggest that local forums would not benefit

if larger industrial businesses and entities would be involved in that Liaison Group. But clearly there's this opportunity and other mechanisms for you to liaise between the parties.

Mrs. Knowles, are you happy to take your conversation offline with the applicant in regard to this matter and resolve it between yourselves and then advisors of what you've agreed?

Thank you. That's that's fine. We can do that. Okay, Mr. Philpott, do you want to add anything else? Only that. In fairness, I understand that, that it's like Miss knows has picked that up from our deadline three submissions, but having taken instructions, my understanding is that that is not, ultimately, the position that the applicant has adopted. So it's not. There's no criticism of missiles for raising the point, just a point of confusion. Yeah, it is, and I hope I've clarified it. Now we can discuss it outside the examination. All right, I'll leave it for you to discuss outside the examination. Then advise us of where you've got to

Does anybody else want to raise anything with regard to requirement 25 which is local liaison groups,

but no indications in the room or online. Requirement, 26 employment skills training plan. Again, interested parties, any comments or observations with regard to this,

no indication. Requirement, 27 which is the carbon dioxide transport and storage requirement.

Again, any interested party comments or observations, please.

No indication in the room. No indication online. I'm going to move on requirement 28 related to decommissioning. Does anybody wish to say anything with regard to requirement 28

nothing in the room. I've got.

Miss Knowles, again, please.

Thank you. Tabitha Knowles, on behalf of Anglo American, this is similar to requirement 22 the applicant has suggested that this matter can be addressed via protective provisions, and so we'll review that first draft and comment on it accordingly.

Thank you. Miss Knowles.

Harry wood Philpot on behalf of the applicant, it's essentially the same point, same response, Okay, understood

in that case. Does anybody else want to raise anything with regard to requirement 28

and we've got no indication online or in the room. So requirement 29 written requirements for written approval,

again, any interested party responding on this item,

no indication on line or in the room. Requirement 30, is approval of details and amendments to them. Does any interested party wish to comment on this requirement?

No indication, either virtually or in the room. Requirement. 31 amendments to amendments agreed by the relevant planning authority any interested party in the room or online. Please.

No indication. Moving on to requirement 32 consultation with the South South tees Development Corporation. Again, does anybody want to raise any comments with regard to this requirement?

No indications on either. Which brings us to the final requirement, which is requirement 33 and I'm sorry, but I've got some questions on

this requirement. I struggle with this requirement, to be quite honest with you.

As part of my confusion, perhaps it goes back to my training, but

as in the event of

net zero T side having discharged a specific equivalent requirement which it only relates to detail submitted as relevant to their project, which is the net zero T side project. How can that requirement then relate to anything within the H 2t side development consent order.

That's that's where my confusion effectively lies. Some aspects that are included within the work numbers lie outside of the order boundary for net zero, t side, some, not all, but, but some. So if you've discharged the requirement say, for example, related to design and work number six, there's elements of work number six that don't fall within the net zero t site boundary. So how do we close off that difficulty? So

in that case, it simply wouldn't apply effectively. The idea, as I understand it, is that because there are overlaps in the side, there may be some some elements of what is required to discharge requirements under the net zero Teesside development consent order that our effect, once discharged under that order, effectively deal with the same subject matter that has to be included in this order. Because, of

course, this order has to assume that the net zero T side DCO may or may not go ahead. But if, if, in the judgment of the relevant planning authority, who, of course, have to look at this, it's not an automatic provision, they are satisfied that actually there's nothing more to be done.

That they are satisfied that what has been discharged under the net zero T side order deals with the same subject matter. They may, in their discretion, choose to disapply the need to satisfy the requirements under this order, which would otherwise simply duplicate the same process so the it's limited, and it is also, importantly, under the control of a responsible public authority, which, if it's not satisfied in any respect, it can simply refuse to display it, okay, and then you have to, you have to deal with it. So it, but it allows the option where appropriate, for not only the

resources and time, etc, required on the Undertaker's side to discharge a requirement where it may be unnecessary, but similarly, it reduces the burden that would otherwise be placed On the relevant planning authority to take a step and to commit resources to taking a step which may be simply duplicating the same process. And so it is, it is intended to have that practical effect, which is in the public interest, but it is.

As I've indicated, soon to be controlled by the fact that it's only happens if the planning authority approves.

What happens in the event that they refuse to discharge that condition that yet you have a right of appeal under Schedule 12. Well, in those circumstances, the

if the

decision maker, taking all those matters into account, considers that they came to the wrong decision, they have an ability to we have an ability to

effectively get around what would otherwise be an obstacle.

That's the same as for any other approval under the order. I don't disagree. I'm just thinking of, you know,

if the local authority declined because of obvious reasons that the element of the works they're concerned about fall outside the scope of the NZT order, for example,

and they refuse consent,

it then puts it to an up, potentially puts it to another level, which would be an inspector appointed by the Secretary of State to consider

and potentially unnecessarily, because

it's clearly something that that should be dealt with by the local planning authority. And between yourselves,

you know it's unnecessary work being pushed towards the Secretary of State effectively, is what what I'm pointing at.

I know you have a right of appeal. I know that shouldn't be removed, but I just don't want excessive work where it's not required,

where you've you've reached, reached just an impasse because you disagree, but I can see the point you've made. I think what I'll do before I dig myself into any bigger hole, I'll ask Mr. Henderson if he would like to comment. Please.

Thank you, sir. Tom Henderson, for STG, and STG is interest in this, as you'll appreciate, is as a consultee on a number of these matters before they're approved by the relevant planning authority.

I think on article so requirement 33 we we understand

what the applicant is seeking to achieve. I think our position is reserved at the moment

as to whether we think it's acceptable. We're still getting to grips with it. I think as a minimum, the drafting needs to be thought through a bit further, because I think there are areas of legal uncertainty, and I'll point out a couple of those. So

sub paragraph a of requirement 33 this applies the requirements in this order in relation to community liaison, and I think employment and skills, yeah, on the basis they've been discharged under net 02 side. But of course, it doesn't then say that those provisions should be read as applying to this development. So there'd be no Community Liaison Group in relation to this development, because Net Zero religion doesn't apply this development. So I think that could be addressed with drafting. And then in relation to sub paragraphs B and C, use of the phrase development that be will be utilized, I don't think is sufficiently clear, because utilized doesn't mean that it can't be adapted, modified, extended, but that would have no control under this order, because you've disapplied detailed design approval. So I think again, that may be curable through drafting. It might be utilized in the form discharged under the net zero T side order, that might tighten up what's trying to be achieved. But we do think, at the moment, the drafting doesn't doesn't quite do the job it's seeking to do.

As I've said already, I don't want to dig myself into a bigger hole, but, I'm relative. I'm uncomfortable with the way this is drafted at the moment, and as Mr. Henderson has sort of indicated, there are some issues with it from their point of view. I know, I know your response has been subject to the relevant planning authorities approval,

but it does leave questions about, especially the ones that Mr. Henderson was pointing to, and in partly what I was pointing to in relation to how that relates to

developments being extended to this order. So how does the local liaison discharged under NCT relate to this order, you know, and how can the relevant local planning authorities be satisfied in relation to this order?

Can I ask you to have a look at it and think about it a bit more? Because at the moment, I'm very uncomfortable with the way this word works, and I might seek further legal advice on this requirement, because, because, at the moment, and I haven't put my thoughts down in on in writing yet, but, and maybe that's what I need to do to get the process right. But it strikes me that it doesn't work very well, or necessarily.

At all in relation to the order that we're looking at, and has the potential to cause a big loophole

that leaves the local authorities with no ability to control or to enforce. And indeed, if you think about the six tests,

you know

two of those precision enforcement you know, you got to be, you got to be certain about these things. So so I'm not convinced at the moment, is what I think I'm saying. So if I can just respond briefly on two points, and then we'll take it away, and obviously we'll look at the drafting in more detail. But so far, dealing with the first point as to whether or not this gives rise, potentially to additional work at appellate level.

Ultimately, if there is a dispute as to whether a scheme that has been approved under the net zero Teesside order is ultimately adequate to discharge, in effect, the equivalent requirement under the net zero T side order underlying that, and at the heart of it is a dispute as to the adequacy of those details, and so one way or another, that either is resolved or local level, so that they can be made come the discharge and authority can be made comfortable with it, or it goes to appeal. So the at the heart of it is an issue of substance, which will either be resolved or it won't be. It will be no additional work in principle. The second point is about the detailed drafting of this, as this is obviously only recently gone in in this form. It's the first attempt at drafting it in the usual way. No doubt, particularly for something which is novel, there will be improvements to be made. So if it's the language, for example, of

disapplication, if the the intention is that this deemed discharge, so that the requirement remains in effect, remains enforceable, as opposed to disapplication, which may be a different concept, those are drafting matters that can be dealt with. But clearly, it's a no party's interest, and it's not the applicant's intention that the local planning authority will be left without control, that these the purposes that are intended to be served by the relevant requirements in this order, would in some way be swerved by means of this drafting. That's not the intention. The intention is effectively to avoid duplication of work, as opposed to avoiding controls and mitigation. So it's not that if there's a local Liaison Group set up, we're not obliged to participate in this in the way that the requirements envisages is just that if it's already been approved and set up, we don't then have to apply effectively for approval of exactly the same thing

some months or whatever period of time it is later. So I understand the concerns that have been raised. I won't try and deal with the detailed drafting points, but as Mr. Anderson fairly acknowledged, the points that he's raising may be capable of being dealt with by detailed drafting and we'll obviously need to look at that just both as a point of interest a

similar novel requirement was sought in South Humber bank Energy Center,

which was recommended in the recommendation report to the Secretary of State. Slightly different circumstances. I accept that was a there was an extent planning permission, which was being extended by the DCO, effectively, but they tried to seek to discharge any, any conditions that they discharged

from the planning commission that was similar, under the requirements of the DCO could automatically be discharged the Secretary of State, and his decision had to be stripped it

out. So we'll look at that. We'll also There are

also various other development consent orders where that issue the relationship between an extent planning permission and development consent order, which covers the same works, have been dealt with in detail drafting. So we can also look at those examples, I think, but by way of examples, which immediately come to mind in relation to the Hinckley point C order, where there was a planning permission for certain preliminary works, and the same works were included in the development consent order. And there were provisions which dealt with the transition from one to the other, switching one off, switching the other, and dealing with a part as part of that, the equivalent conditions and requirements and what would be treated as discharge. So we can look at, I suspect, a number of examples where you have that situation, which is at least some some parallel that we can explore, that I'd be grateful for, that if.

You could do that, Mr. Henderson, is there anything else you wanted to add?

No further comments, sir. Thank you. Okay. Does anybody else wish to raise anything with regard to requirement 33 please.

No indication in the room. No indication online.

In that instance, I'm going to move on.

So I'm just reading my notes. I've got a note about comments from Anglo American but they've already covered those off, so I'm not going to pursue those further. In that case, I'm going to move on to item number five, which is articles. Article 44 of the draft eco and certification of plans. This is just literally a list of the plans set out the plans and documents set out in Article 44 which I will read through. What I want to know is, does anybody consider there should be any other documents included in this list? Has anybody think for me missed effectively? So,

or indeed, has anything been included that shouldn't be there. So access and rights for way plans, Application Guide, book of reference,

design and access statement.

So if I'm if I may, on design Harold Phil but on behalf of the applicant, as I indicated. I don't think I indicated earlier, the design and access statement is to come out. It's been removed in the change application development consent order because it's not referred to and it'll be in the deadline for that's fine. I've asked stress them both anyway to indicate that was the difference between this one and the next change request, development consent order. But okay, that's understood. The environmental statement, the non technical summary, the volume one, Volume Two and volume three. Figure 2.15, which is important portent hedgerows to be removed. The framework construction, environmental management plan, the framework, construction traffic plan, the framework, construction workers management plan, the Indicative lighting strategy, construction, indicative lighting strategy, operation, indicative surface water drainage plan, lands plans, nutrient neutrality assessment, outline landscape and Biodiversity Management Plan, outline site waste management plan, outline, water management plan, special category land and crown plan, Crown land plans, temporary traffic regulation measures. Plan,

Water Framework, directive assessment and the works plans. Does anybody believe there is something in there that shouldn't be there? Something missing that should be there,

getting no indication in the room, no indication online. So I'm going to take that as read,

and in that case, I'm going to move on to agenda item six, which is consents licensing and other agreements.

I don't believe there's any

planning agreements necessarily that's been sought in relation to this, but is there any other consents licensing agreements that you wanted to give us an overview for Mr. Philpot so on that, I'm going to ask Mr. Ross Nixon to just provide you with an overview and any update.

So Ross Nixon on behalf of the applicant, so

the key other consents and licenses required for the development they're outlined at a high level, and the other consents and licenses statement that was submitted and updated deadline to 007

there are some that are either in train or, I think, might be of interest to the examining authority. So I was just planning to give you an update of the status of those. Yes, please. So environment permit application that is submitted to the Environment Agency

was submitted on the 14th of June, and a request for additional information was sent to the applicant on the seventh of August, with a request for a response by the 11th of October, and we submitted that response on the 11th of October, and we are expecting it to be duly made in the very near future. Good that one's in train. The other two that I thought it might be worth an update on is the coma the control of major accident hazards regulations application and the hazardous substances application. So coma

is

to be applied for. So a coma notification and a coma safety report must be submitted three to six months prior to the start of construction. So the

the.

The chapter five, the construction program and management, which is a P, P 057,

anticipated the earliest construction start to phase one to be q4 2025,

so we are intending to submit the coma notification and safety report in q2

of 2025 of next year.

The but we have been in regular communication with the Health and Safety Executive on on the East Coast cluster, more generally, and we're looking to engage them on a timetable for the coma application,

the hazardous substances consent

is to be submitted to the local planning authority, and that is, that is six to 12 months Prior to the hazardous substances being taken on to the site.

The we believe a hazardous substances consent will be required because of the volume of hydrogen that will be stored on the site, but also potentially for other chemicals that may be stored on the site.

But we intend to submit that, as I say, six to 12 months before the

substances are present on the site. So that's

a good way away. Yet it would be 2027

actually, I think by the current schedule, we would submit that

if there's any others you're particularly interested in,

I can give you an update.

No, I think that's a good proceed on the main ones that I would have been interested in. I've read the documents. I've read all of the other positions you're at.

So thank you very much for that.

Can I ask just in terms of local agreements? Are you seeking, or is anybody seeking any planning performance agreements from you, or any think if the nature of section 106 agreement, or any of the local authorities seeking anything of that nature, not read anything. I've not seen anything, just double checking that. That's my understanding.

So while Mr. Fox takes instructions on the other matters in terms of obligations, the only thing I would mention it's not something that we rely on. It's not something that we say is necessary in order to address any impact, but we are looking at opportunities to deliver wider biodiversity enhancements and habitat benefits within Teesside, and we're in discussion with a number of parties on that matter, and we'll report where we've got to before the end of the examination. What we're looking to do is trying to target

what we are providing in order to deliver multiple benefits for both habitats and species to achieve strategic biodiversity enhancements, and we've had meetings with a number of parties

to that End,

including Teesside environmental Trust, the hospital of God, North York, Moors, National Park Authority, tees river trust, industry, Nature Conservation Association, the tees Valley Combined Authority, the canal and rivers trust, Natural England and the Environment Agency and wants suitable opportunities for enhancement have been identified. We're proposing to secure that these through an appropriate legal agreement, such as, but not necessarily a section 106

agreement will seek to complete this prior to the end of the examination. But that may not be possible, but in any event, because we're not asking you to rely on that matter, we're not asking you to give weight to it is not something that's necessary and would therefore pass the tests for taking it into account. It's simply something the applicant is doing in order to act as a responsible developer, but that is going on in the background, and will report progress on it. But as with many funds of a similar nature, which you get with large projects which are put forward on that basis, it's not something we're going to ask you to rely on in your report the I mean, it's interesting, because obviously the position with regard to biodiversity net gain is that it doesn't yet apply to national infrastructure applications, although it's imminent, but it still wouldn't apply to yours. As my understanding, from the way that legislation is currently set out, I

understand your position, where you where you've reached with bio.

Diversity net gain. But I also am clearly conscious of what various

politicians have said about biodiversity net gain, and you know what the government position is in terms of pursuing as as much as you can. It's interesting because you, you, I couldn't, I couldn't necessarily say we we wanted you to secure it by via section 106 agreement, because it's not necessary to make the development acceptable in planning terms. It isn't directly related to the development because of the current policy position, and it, in my view, it wouldn't be fairly or reasonably

able to request it at this point in time.

So I'd be interesting to know how you're going to do it, but that sort of is a side thing. It's not something I can take forward. The question really was, is, Are you doing anything else? And the answer is, yes, you are, but that it's being done by local agreement, effectively, as opposed to within this, within this forum. So right, that's right. And if I may say so, your summary of the current legal and policy position is correct. It reflects our understanding, and of course, in a sense, whatever individual politicians may say, politicians act ultimately through legislation and through the under this legislation, the making of policy through national policy statements and other means of making policy. That's how those things bear on the decision making in this case, and your description of the current position and the way in which we're putting this forward is fair. In that context, I've also had confirmation that we've not been asked for any planning performance agreements, nor have any been given in this case. Okay, that's that's good to know.

Thank you. I mean, again, such agreements would have fallen outside of our scope and could be completed under the Local Government Act. So Section 111 I think, is

okay.

Do anybody? Does any other interested party wish to make any comments with regard to this particular item? So in terms of

consents, licenses or other agreements,

get no indication in the room and no indication online. So I'm going to move on.

And that takes us to item number seven, which Miss Bennet Matthews is taking us through. Okay, thank you very much. Agenda item seven, any other matters and actions points arising from the hearing. This agenda item relates to any other matters and action points arising from the hearing. Firstly, can I ask the applicant, are there any other matters relating to this issue, specific hearing into the scope of the development

that you believe haven't been covered? Madam, no, we're content that we've made the points we wanted to against the agenda. Thank you very much.

Can I pose that same question to the interested parties? Are there any other matters relating to this issue, specific hearing into the scope of the development which you believe haven't been covered?

I have no response. So I'll just move on.

In terms of action points. There are a number of action points have been raised today. We propose to review those action points and to publish the action points from today's hearing, in the next day or two, if that's permitted,

if there is no other relevant business, may I remind you that the timetable for this examination requires that the parties provide any post hearing documents on or before deadline for in the timetable, which I have as Wednesday the 20th of November 2024

and so I'll just hand you back to Mr. Butler for Agenda Item eight.

Me again.

Thank you very much for participating in the hearing today. Your

responses have been very useful and helpful to us. Digital recording for the proceedings today will be available as soon as possible on the project page of the national infrastructure website. In addition, I'd request that submissions are made in accordance with deadline for Monday the 20 Monday, the 20th of November.

Sure if it's a Monday, but anyway, the 20th of November is on my list again. I thank all parties here today watching the live stream and watching the Digital recording for their interest in this application. And I'd specifically like to thank all those parties that have actually physically come here today.

Time now is 2:44pm

and I declare this issue specific here in regarding the draft development consent order for the proposed HTTP side project. Closed. Thank you. Applause.