

South Tees Group (20049389)

H2Teesside DCO Examination

Deadline 4 Submission: Written Summary of Submissions at Issue Specific Hearing 2 Held on 14 November 2024

| No. | Agenda Item | Issues |
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| 3 | Articles and Schedules of the draft Development Consent Order (DCO) | <p>Tom Henderson (TH), Partner at BDB Pitmans LLP, represented the South Tees Group at Issue Specific Hearing 2 (ISH2).</p> <p>STG's initial position on the articles and schedules of the draft Development Consent Order (dDCO) [REP2-005] is set out in its RRs [RR-003]. The agreed Statement of Common Ground (SoCG) submitted by the Applicant at Deadline 3 [REP3-008] sets out the parties' updated positions on dDCO powers, as referred to in these submissions.</p> <p>STG commented on the following matters at ISH2.</p> <p><u>Article 2</u></p> <p>The Applicant has previously expanded its position on the permitted protective works drafting primarily in its response to ExAQ1.1.8 [REP2-019].</p> <p>TH noted that Requirement 15(1) of the dDCO requires prior approval of a preliminary works construction environmental management plan by the relevant local planning authority. TH requested that South Tees Development Corporation (STDC) be included as a consultee on the proposed management plan, in line with other Requirements under which STDC is a consultee. The Applicant indicated that it was willing to make that amendment, for which STG is grateful, and awaits an updated dDCO which brings the change into effect.</p> <p>As noted in the SoCG [REP3-008], STG will also be seeking to ensure that its concerns from para 4.1 of its RRs [RR-003] regarding the control of permitted preliminary works will be managed via protective provisions. STG is currently</p> |

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| | | <p>preparing its preferred form of PPs and will share them with the Applicant ahead of submitting them to the examination in due course (with a target date of Deadline 5 on 18 December 2024).</p> <p><i>Post-hearing note: to avoid duplication throughout this submission, STG notes that it also anticipates its concerns about dDCO articles 10 – 14, 16, 19, 20, and Part 5, will be managed via protective provisions. This reflects the position in the SoCG [REP3-008].</i></p> <p><u>Article 8</u></p> <p>To address STG’s concerns from para 4.2 of its RRs [RR-003], as stated in the current SoCG [REP3-008] the Applicant has agreed to amend this article at the next dDCO submission, to make proposed third party transfers of Order powers subject to prior STG notification (where not subject to SoS approval). This is equivalent to the NZT DCO.</p> <p>TH requested the Applicant also consider additional dDCO drafting to clarify the interplay between articles 8 and 25, to ensure STG is also notified of transfers to which the latter applies.</p> <p><u>Article 25(2)</u></p> <p>STG requested additional dDCO drafting to clarify the interplay between articles 8 and 25, as noted above.</p> |
| 4 | Schedule 2 to the draft DCO – Requirements | <p><u>‘Missing’ requirements</u></p> <p>The missing Schedule 2 requirements specified in paragraph 4.2.12 STG’s RR [RR-003] were included in the Net Zero Teesside DCO, but the Applicant has stated they are unnecessary [REP3-008] because the dDCO’s articles cover the same ground.</p> <p>Of the requirements STG originally raised, STG maintains that as a minimum an equivalent for NZT requirement 7 should be included. Specifically, NZT requirement 7 covers both the design and the approval of vehicular access, whereas the equivalent design is not covered in the dDCO requirements. TH noted that article 12 does not provide equivalent commitment, because that concerns completion of the street works to the reasonable satisfaction of the approving body, but it does not address approval of upfront design.</p> <p>The two DCOs are therefore not equivalent in this aspect, and STG requests the Applicant to add an equivalent requirement to Schedule 2 to the next draft DCO.</p> |

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| | | <p><u>Requirement 33</u></p> <p>STG's response to the Applicant's SoCG [REP3-008] comments on this requirement is still under review, and STG will report its updates on this matter through the SoCG. At ISH2 TH noted that whilst STG understands what requirement 33 is seeking to achieve, its position is reserved because it has concerns about the effects of the current drafting, for instance:</p> <ul style="list-style-type: none">• The effect of sub-paragraph (a) is that, if NZT discharges its equivalent Requirements, H2T will not be subject to any local liaison group or employment, skills and training plan. As a minimum, if sub-paragraph (a) disapplies H2T Requirements 25 and 26, then the equivalent NZT Requirements should be read as applying also to H2T.• The effect of sub-paragraphs (b) and (c) is that it could remove detailed design controls over any H2T-led amendment, modification or extension to NZT apparatus, on the basis that the NZT apparatus was being "utilised". As a minimum, sub-paragraphs (b) and (c) should be limited to circumstances where NZT apparatus is being utilised "in exactly the same form approved" under the NZT DCO. |
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