

PLANNING ACT 2008

**THE INFRASTRUCTURE PLANNING (APPLICATIONS: PRESCRIBED FORMS AND
PROCEDURE) REGULATIONS 2009**

H2Teesside

EN070009

**Summary of the Oral Submission of CF Fertilisers UK Limited made at CAH1
Interested Party Reference: 20049372**

1. **Introduction**
 - 1.1 This written summary of oral submissions is submitted in accordance with Deadline 4 of the examination timetable for the application by H2Teesside Limited (the "**Applicant**") for an Order under the Planning Act 2008 granted Development Consent for the H2Teesside Project (the "**DCO**").
 - 1.2 The summary of oral submissions relates to submissions made at Compulsory Acquisition Hearing 1 ("**CAH1**") on 13 November 2024 on behalf of CF Fertilisers Limited ("**CFF**").
2. **CF Fertilisers UK Limited ("**CFF**")**
 - 2.1 A relevant representation, now with reference RR-011 (the "**RR**") was submitted on behalf of CFF in connection with the DCO.
 - 2.2 As outlined during the CAH1, CFF is the UK's premier fertiliser manufacturer. Its products are key building blocks for many other materials and it is the only substantial UK manufacturer of ammonium nitrate and nitric acid.
 - 2.3 Ammonium nitrate is utilised in agriculture, CFF supplies 50% of the UK's demand for fertiliser and so plays a fundamental role in the food supply chain. Nitric acid is used in the production of fertilisers and supplied to other users for dyes and other industrial products from defence to battery manufacturers.
 - 2.4 CFF's production site in Billingham (Sheet 1 of APP-008) also produces over half a million tonnes of chemicals and utilities that are supplied to neighbouring Teesside businesses and other nationally critical supply chains.
 - 2.5 In addition, CFF provides services to a range of other businesses in the area including the supply of demineralised water, potable water, raw water and nitrogen and arranging for effluent discharge. These businesses include Johnson Matthey, SNF, Fujifilm, Sequins, Mitsubishi, Quorn, IPPE and Methanex.
 - 2.6 Full details of CFF's operations, site and COMAH designation are contained in its RR.
 - 2.7 A list of those plots in which CFF have a land interest and the nature of that interest are contained in the RR.
 - 2.8 As outlined in the CAH1, CFF has three broad concerns with regard to the Applicant's proposed compulsory acquisition powers:
 - 2.8.1 The need for compulsory acquisition
 - 2.8.2 Alternatives to compulsory acquisition
 - 2.8.3 The use of extinguishment and overriding powers
3. **The need for and extent of compulsory acquisition**
 - 3.1 As detailed during the oral submissions, much of the land in and around CFF's site (Sheet 1 of APP-008) is included within the order limits for the provision of a hydrogen connection point within the CFF site. Earlier in the Applicant's design process CFF was interested in having such a connection point to supply hydrogen for the production of ammonia, a key component of fertiliser products.
 - 3.2 Notably, it was drawn to the attention of the Examining Authority that since the decision was made to import ammonia from CFF American facilities and close the ammonia plant in 2022/23, there is no longer any requirement for a hydrogen connection to its site.

Furthermore, there is no prospect of a future connection being needed, since the ammonia plant is not viable and is no longer in a condition to be restarted.

- 3.3 In addition, it was flagged during oral submissions that it is also understood that a further potential customer, Mitsubishi, located beyond CFF's site has also ceased a number of operations and likely also no longer requires a hydrogen feed. Other proposed users in the area are understood to be modest.
- 3.4 On this basis, the Examining Authority were directed to the tests under the Planning Act 2008 and DCLG Guidance¹ on compulsory acquisition, CFF does not consider that the acquisition of land and rights within its site is necessary for the development of the Applicant's hydrogen network, nor that there would be a compelling case in the public interest for the grant of compulsory acquisition powers, since future hydrogen connections in this area are either modest (for example building heating) or entirely speculative.
- 3.5 It was further expressed to the Examining Authority that a further point also arises, which is the extent to which this leg of the hydrogen distribution network is viable and deliverable, without an anchor hydrogen offtaker.

4. **Alternatives to compulsory acquisition**

- 4.1 It was outlined during the CAH1 that CFF has engaged with the Applicant throughout the promotion of the DCO application, making clear its concerns about the inclusion of its site within the order limits. Without prejudice to this primary issue, CFF considers that there are also alternatives which would avoid the need for compulsory acquisition.
- 4.2 Firstly, as the hydrogen pipeline does not need to be routed into the CFF site, it could instead continue along the existing pipeline corridor running along the eastern edge of the site adjacent to the cooling towers. This would have the distinct advantages of;
- 4.2.1 avoiding any unnecessary interaction with CFF's complex upper tier COMAH operations within the main site;
 - 4.2.2 avoiding the sterilisation of a valuable plot of land within the CFF site;
 - 4.2.3 avoiding the majority of construction related impacts on CFF's operations; and
 - 4.2.4 ensuring that the routing of pipelines follows existing utility corridors, which is optimal from a safety and maintenance perspective.
- 4.3 Secondly, the Applicant has identified a large site, Plot 1/31 as shown on Sheet 1 of APP-008 (the "Plot"), for temporary possession within the CFF site. The Plot is valuable owing to its close proximity to an electricity grid connection, other utility connections and excellent access and security arrangements.
- 4.4 CFF outlined to the Examining Authority the multiple approaches from parties wishing to purchase or take a lease of the Plot. The speculative inclusion of the Plot within the DCO limits is likely to sterilise the land for future development in the short to medium term. There is, however, a vacant site immediately to the north which is currently understood to be available. CFF consider that this would be a preferable alternative, if in fact the site is needed at all.

5. **Extinguishment and overriding powers**

- 5.1 The Applicant made reference to the concerns raised in its RR in relation to Article 23 of the draft DCO, which includes powers to override easements and other rights. The RR notes that it is unclear how this power will be utilised by the Applicant or the circumstances in which it is expected that those affected by compulsory acquisition may have their rights extinguished or overridden.

¹ Planning Act 2008, Guidance related to procedures for the CA of Land, September 2013

5.2

CFF and many other businesses in the area utilise pipelines, pursuant to rights and easements, within the corridors that the applicant has included within order limits. These pipelines carry a range of substances that are essential for continued operations. Article 23 would allow the Applicant to interfere with or even remove this critical infrastructure and on the face of the order, there are no control mechanisms to prevent this.

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20 November 2024