

H2Teesside Project

Planning Inspectorate Reference: EN070009

Land within the boroughs of Redcar and Cleveland and Stockton-on-Tees, Teesside and within the borough of Hartlepool, County Durham

The H2 Teesside Order

Document Reference: 8.21 Summary of Applicant's Oral Submissions at the Compulsory Acquisition Hearing 1 (CAH1)

The Infrastructure Planning (Examination Procedure) Rules 2010



Applicant: H2 Teesside Ltd

Date: November 2024

WRITTEN SUMMARY OF THE APPLICANT’S ORAL SUBMISSIONS AT COMPULSORY ACQUISITION HEARING 1 (CAH1)

Agenda Item	Applicant’s Response
<p>3 The Applicant’s case for Compulsory Acquisition and Temporary Possession</p>	
<p>3(i) The ExA will invite the Applicant to take up to 20 minutes to provide an overview of:</p> <ul style="list-style-type: none"> • its overall approach to CA and TP in the context of the relevant tests under the Planning Act 2008 and DCLG Guidance (Planning Act 2008, Guidance related to procedures for the CA of land, DCLG, September 2013). • the purpose, structure and content of the Book of Reference (BoR), the Statement of Reasons (SoR) and the Funding Statement. • the powers sought and the overall case for them being granted. 	<p>Mr Phillpot KC, on behalf of the Applicant, explained that the relevant tests and guidance had been summarised by the Examining Authority (ExA) and would therefore not be repeated.</p> <p>Mr Phillpot KC, confirmed that the Applicant had included powers within the draft Development Consent Order (dDCO) which satisfied the tests set out in section 122(2) and 122(3) and the relevant reasons. The Statement of Reasons (APP-024) explains the need in general terms for the compulsory acquisition of land and rights, the extinguishment/suspension of rights and the temporary possession ('TP') of land. This documents need to be read together with the Schedule of Negotiations and Powers Sought (APP-026) explaining why each plot of land within the Order limits is required. The relevant plot numbers are linked to specific works in the dDCO, so that it can be understood why each piece of land or new right (or extinguishment of rights) in that land is required. For rights and TP plots, this is also set out in Schedules 9 and 11 of the DCO.</p> <p>These documents should be read alongside the submissions put in at Deadline 2, in particular REP 2-037 (Order Limits Widths Explanatory Note) and REP 2-038 (Interrelationship Report) which provide more detail about the matters raised by the ExA. It can be seen in that document that in each case the purpose of acquisition meets the condition in subsection (2) because it is:</p> <ul style="list-style-type: none"> • either for development to which the application relates e.g. it is the location of some new infrastructure; • to facilitate that development e.g. it is required to construct the infrastructure;

- or the purpose is incidental to that development e.g. it is required to access and maintain that infrastructure; or
- it is replacement land to be given in exchange for order land under Section 131 Cowpen Bewley Woodland Park. The exception in s131(4) applies to this land.

Open space land and the replacement of open space land within the Order limits is more particularly described in section 9 of the Statement of Reasons (Special Considerations).

Freehold Acquisition

Mr Phillpot KC, moved on to consider freehold acquisition. In summary, the areas in which freehold acquisition is sought are those where the Applicant requires permanent and sole possession of the land, and acquisition of all interests in the land is the only appropriate route to achieve the Proposed Development. The areas to which this applies are:

- part of the Teesworks Site (part of the former Redcar Steel Works Site) which is the location for the proposed Hydrogen Production Facility (Work No. 1), as well as part of various connections to Work No. 1;
- land required for the above ground installations (AGIs) which are part of Work No. 2 (Natural Gas Connection),
- land required for the sub-stations (or AGIs) which are part of Work No. 3 (Electrical Connection Works), for the import of electricity from electricity transmission networks;
- land required for the AGIs which are part of Work No. 6 (Hydrogen Distribution Network), to connect Work No. 6A to the gas grid and distribution networks, and to hydrogen offtakers (Work No. 6B);

- land required for the AGIs which are part of Work No. 7 (Carbon Dioxide Export Pipeline), for the export of carbon dioxide; and
- Replacement Land required in exchange for Lost Open Space (Work No. 11).

New Rights

Mr Phillpot KC then discussed New Rights in summary: these are the areas where the Applicant needs a permanent interest in land but does not require exclusive possession of the land. These are the areas required for installation, construction, operation and maintenance of:

- the Natural Gas Connection (Work No. 2A);
- the Electrical Connection Corridor (Work No. 3);
- the Water Connections (Work Nos. 4 and 5);
- the Hydrogen Distribution Network – underground and overground pipelines (Work No. 6A);
- the CO2 Export Connection (Work No. 7A);
- the Other Gases Connections (Work No. 8); and
- the Access and Highway Works (Work No. 10, to the extent these are permanent).

Mr Phillpot KC explained that most of these areas over which new rights are sought include both the substantive works (such as a pipeline or cable) and, where necessary, routes along which the Applicant can gain access to the relevant connection corridors.

Extinguishment/ Suspensions of rights

The Applicant has included powers in the Order to ensure that easements, restrictions and other private rights identified as affecting the land can be extinguished or suspended, so as to facilitate the construction and operation of the Proposed Development without hindrance. In addition, there may be unknown rights, restrictions, easements or servitudes affecting that land which also need to be extinguished in order to facilitate the construction and operation of the Proposed Development.

Temporary use of land

Other areas of land are included in the Order limits with powers of temporary possession sought under Article 32 (and 33). These are areas which the Applicant only requires use of during construction of the Proposed Development. Article 32 permits temporary use in two ways:

- Firstly, the land identified in Schedule 10 to the Order may only be temporarily possessed (i.e. the Applicant cannot acquire the land nor new rights over it), and possession can only be taken for the purposes set out in that Schedule for the particular plot; and
- Secondly, Article 32 permits the Applicant to take temporary possession of any other part of the Order Land where it has not yet exercised powers of compulsory acquisition - this will allow it (for instance) to initially take temporary possession of the whole width of corridors required for pipeline or cable connections.

The Applicant has included specific powers to use land temporarily (i.e. that coloured yellow on the Land Plans) to construct the Proposed Development where it does not require any interest in the land on a permanent basis. These areas relate to:

- the temporary construction laydown areas (Work No. 9, to the extent these do not overlap with permanent works); and

- some access and highway improvements (Work No. 10) and which will be used for the purposes of construction.

Mr Phillpot KC, on behalf of the Applicant, continued with details on the overall case for the powers sought in relation to section 122(3). Subsection (3) requires the SoS to be satisfied that there is a compelling case in the public interest for the land to be acquired compulsorily.

The compelling case test effectively mirrors the requirements of the Human Rights Act 1998, and the need to show that any proposed interference with article 1 to the first protocol and article 8 is for a legitimate purpose, lawful and proportionate.

The SoR sets out the compelling case at sections 7 (Justification for the Use of Powers of Compulsory Acquisition), 8 (Policy Support) and 11 (Human Rights), although given the nature of the test it is also relevant to consider what is said in section 6 (Need for the Compulsory Acquisition of land and rights), which shows that:

- the powers are sought for a legitimate purpose;
- efforts have been and continue to be made to acquire the land by negotiation;
- absent powers of CA the order land may not be assembled in time to enable the underlying urgent public interest objectives to be met;
- there is no reasonable alternative to the proposed acquisition in order for the Proposed Development to proceed;
- the site selected for the Proposed Development and the land needed to implement it, are suitable having regard to potential alternatives – the Applicant has undertaken a clear and appropriate process to identify the site and the most appropriate connection corridors; and
- the Applicant has the ability to procure the financial resources required for the Project, including costs associated with acquisition of land.

Section 7 of the Statement of Reasons sets out the compelling case for the compulsory acquisition and temporary possession powers sought for the Proposed Development. This section summarises detail contained in the Planning Statement and the Project Need Statement, which further expand on the case for the Proposed Development. Section 8 of the Statement of Reasons contains a summary of the Policy Support for the Proposed Development. Again, further detail is found in the Planning Statement and the Need Statement.

The Proposed Development :

- meets an urgent need for new low carbon hydrogen production;
- is an essential part of decarbonising the power and industrial sectors, by providing the development of a low carbon hydrogen distribution network that enables decarbonisation of industrial emitters, helping the UK meet net zero targets;
- is a form of economic development that is suitable in its local context;
- minimises or mitigates adverse impacts to an acceptable degree; and
- is compliant with National Policy Statements ('NPS') EN-1, EN-4 and EN-5 and in accordance with other decision-making factors specified in Section 104 of the PA 2008.

There is a clear and compelling national need for the Proposed Development as:

- the Proposed Development will make a major contribution toward addressing the established urgent need for the shift to clean energy generation and greater energy efficiency which provides the most effective route to ensuring both climate and energy security;

- the Applicant has selected the Site on which to construct and operate the Proposed Development for sound technical, environmental and commercial reasons; and
- it will provide benefits to the local area to strengthen Teesside's development into the UK's leading hydrogen hub, creating new high-quality jobs, supporting local education and skills development and kick-starting a highly-skilled UK based hydrogen supply chain.

These substantial public interest benefits and the need to realise them substantially and decisively outweighs the impact on the interests of those who would be affected and those interests are capable of being adequately protected and concerns addressed through protective provisions and other safeguards within the order and the application of the Compensation code.

Mr Phillpot KC, concluded with a brief summary on the purpose, structure and content of the Book of Reference, Statement of Reasons and Funding Statement, expanded upon for the purposes of this Summary.

Book of Reference

The Book of Reference follows the requirements prescribed by Regulation 5(2)(d) and 7 of the APFP Regulations. It is divided into five parts as follows:

- Part 1 – Categories 1 & 2: Owners, Lessees, Tenants, Occupiers, Other Interest, Power to Convey or Release Land
- Part 2 – Category 3: Section 10 Land Compensation Act 1965 and Part 1 Land Compensation Act 1973 (being those with a 'relevant claim' pursuant to the definition in S57 PA 2008)
- Part 3 – Easements or other private rights proposed to be interfered with, suspended or extinguished
- Part 4 – Crown Interests
- Part 5 – Special Category and Replacement Land

Details are provided of all land interests subject to powers of compulsory acquisition and temporary possession required for the development to which the Order relates or required to facilitate or incidental to that development. The Book of Reference should be read in accordance with the Land Plans (demonstrating the location of each plot number referenced) and the Works Plans (demonstrating the Work No.(s) for which each such plot is required in order to construct, operate and maintain the Proposed Development).

Statement of Reasons

The Statement of Reasons (SoR) has been prepared in accordance with the requirements of section 37(3)(d) of the PA 2008, Regulations 5(2)(h) and 5(2)(n) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended), and the 'Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land' (DCLG, September 2013).

Its structure is based on setting out the Proposed Development, the Site, the powers sought and the justification for them; the need for the Proposed Scheme, dealing with special considerations (such as special category land and statutory undertakers), the need for other consents and licences and human rights considerations.

The purpose of the SoR is to explain why it is necessary, proportionate and justifiable for the Applicant to seek powers of compulsory acquisition within the Application to acquire land, acquire or create rights over land, to extinguish or suspend rights over land, and to temporarily use land for the purposes of the Proposed Development, and why there is a compelling case in the public interest for the Applicant to be granted these powers.

Funding Statement

	<p>The Funding Statement (as required pursuant to Regulation 5(2)(h) of the APFP Regulations) confirms that the Applicant has the ability to procure the financial resources required for the Proposed Development, including the cost of acquiring any land and rights and the payment of compensation, as applicable. The Applicant has included an article in the dDCO (Article 47) which requires it to put in place financial security before exercising powers of compulsory acquisition.</p> <p>The Funding Statement sets out the background to the Applicant and its Corporate Structure, the estimated costs of the Proposed Development and the estimated costs for land acquisition and blight.</p> <p>The Applicant is not aware of any interests within the Order land in respect of which a person may be able to make a blight claim, but in the event this did occur the Applicant has access to sufficient funds to meet any compensation due.</p> <p>The Secretary of State can therefore be satisfied that the requisite funds for payment of compensation will be available at the appropriate time.</p>
<p>3(ii) ExA further questions</p>	<p><i>ExA asked the Applicant about the potential for updating the Statement of Reasons based on the updated documents submitted. Mr Phillpot KC, explained that the Applicant had not intended to update the Statement of Reasons. A written summary of the oral submissions would be submitted, so points made about updating the position would be reflected here. If the ExA considers an updated Statement of Reasons is required following this, the Applicant would consider such a request. Alternatively, it can bring together a Compelling Case update at the end of Examination.</i></p>
<p>4 Individual objections, issues and voluntary agreements</p>	
<p>4(i) The Applicant will be asked to provide a brief update on the progress of negotiations into CA</p>	<p>Mr Joshua Peat, on behalf of the Applicant, confirmed that the Applicant had been engaging with affected parties and land interests since Spring 2023. Engagement began with survey access requests and then consultations in September/ October 2023 and February 2024. The Applicant has engaged</p>

<p>and TP of land and rights, and deadlines for conclusions of any associated voluntary agreements, especially those listed in the attendees section above.</p>	<p>with fifty-two Affected Parties. As for the progress on negotiations with these parties, the Applicant maintains the Land Rights Tracker to document status and an update to this will be submitted at Deadline 5.</p> <p>Mr Peat confirmed that negotiations relate to a variety of land agreements, protective provisions and side agreements as well as bespoke agreements required by individual landowners.</p> <p>While specific deadlines are not formalised for conclusion of negotiations, the Applicant is progressing negotiations with many of the land owners and occupiers and is aiming to secure agreement prior to the end of Examination for all parties.</p> <p>For landowners, occupiers and affected parties where negotiations are less advanced, the Applicant is committed to continued engagement to resolve outstanding issues and sharing progress beyond the examination period. Mr Peat confirmed the Applicant would continue to update the ExA.</p>
<p>4(ii) Each Affected Party registered to speak will be asked to provide a summary of:</p> <ul style="list-style-type: none"> • the location and manner of land interest and/ or list plot numbers; • it’s objections/ concerns regarding CA/ TP; and • any outstanding matter(s) related to CA/ TP that haven’t already been discussed. 	<p>See Annex 1 (attached).</p>

<p>4(iii) ExA further questions</p>	
<p>5 The BoR, SoR, Land Plans, Diligent Enquiries and Updates</p>	
<p>5(i) The Applicant provided an updated Land Rights Tracker [REP2-018] at Deadline 2, setting out progress on discussions regarding CA and TP, voluntary agreements, objections, protective provisions and other matters related to Land. The Applicant will be asked to:</p> <ul style="list-style-type: none"> • Summarise any additional information not covered in agenda items 3 and 4 relating to the progress made during the Examination and the progress anticipated during the remainder of the Examination. • Set out where it has not been able to progress discussions with known parties and what steps will be taken during the 	<p>The Applicant was invited to provide an update on specific negotiations where progress had not been made, and any steps to identify unknown interests. Mr Phillpot KC, on behalf of the Applicant, confirmed that the Applicant did not believe there were any further updates beyond those already discussed.</p> <p>In respect of unknown interests, the Mr Phillpot confirmed that the Applicant has been conducting ongoing investigations, including reviewing/refreshing land registry data and will update the Book of Reference with any newly registered interests.</p> <p>Additionally, as part of a belt and braces approach, the Applicant has erected unknown land notices at unregistered land plot locations in conjunction with the change notification consultation to invite any potential land interests to come forward with evidence of ownership. These are being maintained on site throughout the examination process.</p> <p>In respect of the fourth bullet point of this item, which was not discussed at the Hearing but written submissions were requested under Action Point 4, the Applicant can confirm that the reference to ‘Reputed interests’ in the Book of Reference relates to highways plots that are unregistered. The ad medium filium rule is presumed to apply, hence the term ‘reputed’ is used, as it is not entirely clear who owns the subsoil and surface of the land versus the local highways authority being considered to be ‘occupying’ as highway authority (noting that highway boundaries do not always equate to actual ownership).</p>

Examination to progress such discussions?

- Summarise the steps to be taken to identify any unknown parties or interests during the Examination? (The Applicant's response to the ExQ1 - Q1.6.6 [REP2-024] is noted. However, the Applicant will be asked to provide any further update in this regard).
- Clarify what steps have been taken/ will be taken to firmly establish the ownership, lessee/ tenant or occupiers of those properties for which "reputed" parties have been identified. (The BoR [REP1-004] refers to "Freehold or Reputed Freehold Owner[s]", "Lessees or Tenants or Reputed Lessees or Tenants" and "Occupiers or Reputed Occupiers, but does not differentiate between these terms within the BoR)

<p>6 How it is intended to use the Land, whether Reasonable Alternatives have been explored and whether the rights sought are legitimate, proportionate and necessary</p>	
<p>6(i) Design principles and progress were the subject of ISH1 and submissions have been made at DL2 in the light of this Hearing. The Applicant has advised that most design details are yet to be finalised for the Proposed Development and these will not be finalised until the detailed design is produced post-consent. The ExA needs to be clear that the rights granted by the Development Consent Order are legitimate, proportionate, and necessary. Bearing this in mind, what is the potential for a reduction in the land and rights proposed to be acquired occurring during detailed design and what liaison with affected parties will take place in that event.</p>	<p>Mr Phillpot KC, on behalf of the Applicant confirmed that there were a number of inter-related issues arising under item 6(i)-(ii) and (v), and the answer to this first sub-item will therefore also be relevant when dealing with the second and fifth sub-items. This summary provides the answer to Action Point CAH-AP1.</p> <p>The starting point is the principle discussed at ISH1 – a DCO for development such as this is generally brought forward not on the basis of a detailed design, but a parameters-based, envelope, approach that has taken account of environmental sensitivities, and wherever possible, existing land uses.</p> <p>The Applicant has a good understanding of the land within the Order limits and its constraints, but is yet to carry out Ground Investigation and detailed design, and therefore requires a level of flexibility in the DCO to be able to ensure the Proposed Development can come forward. Were this flexibility to be removed now then the Secretary of State would be granting consent for a project which would be more constrained and may not in part even be implementable.</p> <p>In the Applicant’s submissions post ISH1 – Interrelationship Document (REP2-036) and Order limits width note (REP2-037) the Applicant has explained the constraints that exist to being able to reduce the Order limits further at this stage, but they also indicate how there is potential for reduction, once those technical constraints and the requirements of third parties are understood (e.g. which ‘side’ of an existing pipeline the new hydrogen pipeline would go, bottoming out the Cowpen Bewley ‘coffee cup handle’).</p> <p>Those matters should also be seen in the context of the way the DCO is drafted. The DCO allows for the Applicant to access land using temporary possession first, build the necessary infrastructure, then utilise the compulsory powers based on the scheme ‘as built’. That is the common approach taken on DCOs to date, and it is inherently proportionate because it ensures that the land and interests</p>

ultimately acquired are no more than is known to be needed for the project. The alternative would be to oblige the undertaker to acquire more land than will ultimately be required at an earlier stage and on a precautionary basis, which is plainly undesirable.

Furthermore, Mr Phillpot KC explained that articles 22 and 25 make clear that the Applicant's land powers may only lawfully be exercised for the same reasons as are required by section 122 – i.e. as required for the authorised development, or to facilitate it, or as incidental to it. As such, any third party would be able to challenge a GVD/NTE if they considered that the Applicant was exercising the power in a way that went beyond the ambit of that article.

Post-Hearing Note: The drafting of these articles also needs to be seen in the context of Requirement 3 of the Draft DCO. For all of the Work Numbers referred to, this Requirement refers to getting either the detailed site, layout and scale of the works, or routing and installation methods approved. Discharge of those Requirements will then help to frame (although is not fully definitive) what land can truly be said to be required to be acquired. As such, any challenge to a GVD would be able to consider the relationship between that GVD and what has been approved under that Requirement.

The extent of the Order Limits also need to be seen and understood in the context of the protective provisions, and any side agreements, which provide those with apparatus or other matters which require protection (such as access), to be considered and dealt with in the exercise of the powers contained in the DCO. The required liaison and where relevant approvals under the protective provisions will take place as part of the detailed design, ensuring relevant parties have a proper opportunity for input as part of the process through which the powers of compulsory acquisition would be exercised.

This reflects the common approach to DCOs, and the Applicant has not sought to go beyond that. No other DCO has provided for a secondary external control to the exercise of compulsory powers above and beyond those set out.

	<p>Finally, it should be noted that the Applicant is commercially incentivised by the statutory compensation scheme and agreements reached with interested parties both to minimise the amount of land it compulsorily acquires and to minimise the disruption to and disturbance of others’ enjoyment of their land. That applies with particular force in circumstances such as these where the Order lands include so many valuable commercial uses.</p> <p>All of these steps will follow on from changes the Applicant has already made in response to the on-going design process, for example:</p> <ul style="list-style-type: none"> • in the Changes Request submitted into Examination; • in the matters discussed in ES Chapter 4 (APP-058); and • the on-going discussions reported on in the updates provided in this Hearing. <p>Finally, Mr Phillpot KC confirmed that the Applicant was not aware of further reductions proposed to be introduced during the course of Examination.</p>
<p>6(ii) The dDCO gives the Applicant the power to extinguish all rights within the Order limits for land coloured blue on the Land Plans. Building on the response to ExQ 1.6.9, please can the Applicant explain the process that will be seen between now and the completion of construction and into maintenance to ensure</p>	<p>The context for the Applicant’s response in respect of this item is that set out in respect of item 6(i) above, which is not repeated. That explains the process through which the project will go to ensure only the required land is needed and that the operational activities of IPs will be maintained.</p> <p>Mr Phillpot KC, on behalf of the Applicant explained that the approach to extinguishment/ overriding of rights may, at initial glance, appear relatively blunt but it is necessary to appreciate it through the lens of protective provisions on the face of the Order and in private agreements with individual parties.</p> <p>An alternative to that approach (which the Applicant believes would be entirely impractical) would be to detail, on a plot by plot basis at this stage, precisely which plots and interests would need to be interfered with and to what extent. This is not a practical exercise because of the stage of detailed design and complexity of interests in this area. For example, as previously discussed in relation to</p>

<p>only the required amount of land is used and the operational activities of IPs will be maintained. Please also explain in what circumstances this would not be possible to maintain the operational activities of others.</p>	<p>Sembcorp and their rights in relation to their particular corridor, it is an ‘intricate web of rights’. The second alternative, where you would be unable to extinguish or override rights where necessary, would jeopardise the timely implementation of the Proposed Development as the Applicant would have to go through a separate process of negotiation.</p> <p>In response to comments from the ExA as to the process for the ending of the suspension of private rights, Mr Phillpot KC, on behalf of the Applicant, noted that Article 26(4) says that <i>subject to the provisions of this article, all private rights or restrictions over land which the Undertaker takes temporary possession under this Order, are suspended and unenforceable for as long as the Undertaker remains in lawful possession of the land and so far as their continuance will be inconsistent with the exercise of the temporary possession of that land.</i> Therefore, if the continuance of those private rights and restrictions are not inconsistent with the exercise of the temporary possession then they are not suspended.</p> <p>Mr Phillpot KC confirmed that the Applicant was not aware of anything that would justify a different approach.</p> <p>The Applicant considers that there are no circumstances in which it would not be possible to maintain the operational activities of others as a result of the final form of the Proposed Development.</p> <p>The proposed development is intended to be constructed, operated and maintained in a way that enables the operational activities of its neighbours to continue. This will be secured through the need to discharge requirements, the controls and mitigations proposed for the construction process, the protective provisions that will be included on the face of the order and where relevant agreements with interested parties.</p> <p>Any concerns arising during construction, operation or maintenance would be managed pursuant to those mechanisms.</p>
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The Applicant committed to saying more on this power in Post Hearing Submissions (article 26), as is noted in Action Point CAH1-AP2. Although noting that this is a well precedented article, this is set out below:

- It first needs to be noted that the provisions need to be seen in the context that the DCO is set up to allow the Applicant to utilise TP powers over any plot within the Order limits, prior to using any compulsory powers. It is standard practice that these powers are used first, so that the full extent of compulsory powers are only utilised to reflect the permanent requirements of the scheme.*
- In this context, article 26(4) works on the basis that once TP is taken pursuant to article 32, all private rights are suspended. This applies to all plots in which that power is used. That suspension starts on the date the undertaker takes temporary possession and lasts for so long as the undertaker remains in lawful possession of the land and so far as their continuance would be inconsistent with the exercise of the temporary possession of the land. The latter is left to the Applicant's discretion, as there may be multiple points in time where the continuance of the existing right may or may not be 'inconsistent' – for example an access right could get in the way of the construction.*
- In such an instance, the key is that once TP is taken, it is presumed to be on the basis of vacant sole possession, and so the Applicant is able to manage any inconsistencies as it sees fit – for example, preventing access. Article 26(4) ensures this is not unlawful.*
- The period of 'lawful possession' is set by article 32(4) as that controls the length of time that temporary possession powers under the DCO can be utilised and so 'lawful possession' can be taken. Article 32(4) explains the position for both TP only plots and other plots.*
- This therefore deals with the period during construction – if the land is not to then be subject to CA powers, the existing rights would be restored at the end of the periods given in article 32(4).*

	<ul style="list-style-type: none"> • <i>Article 26(1) and (2) then operate only when CA powers are sought to be utilised, which will mostly likely be after TP powers are utilised (of course if TP powers aren’t used first, the Applicant would then be moving straight to using the CA powers in question). For plots where full CA powers are utilised, those existing rights are extinguished.</i> • <i>For plots, where CA rights powers are used, the Applicant can by notification extinguish existing rights, or they are otherwise suspended if inconsistent with the exercise of the rights imposed. Given Schedule 8 of the DCO is clear as to what rights could be imposed, it is considered that land interests would be clear as if their rights would be inconsistent with the Applicant’s abilities to enforce those rights or restrictive covenants.</i> • <i>In any event, these powers are subject both to compensation (which is also subject to security as per article 47) but also a number of controls. In particular:</i> <ul style="list-style-type: none"> ○ <i>they do not apply to statutory undertaker and electronics communications code operators’ apparatus and associated rights (article 26(6));</i> ○ <i>the powers can be contracted out (article 26(7)(b)) (e.g. through Side Agreements); and</i> ○ <i>Protective Provisions can control them – whether they are statutory undertakers or any other party. For example, controls on article 26 were included in the Anglo American and STG Protective Provisions in the NZT DCO.</i> • <i>The Applicant expects that all parties who have raised a concern about this issue will be able to be protected pursuant to one of the measures set out above, in the context of this well-precedented article.</i>
<p>6(iii) The Applicant to explain the assessment of alternatives for construction compound</p>	<p>Mr Ibrahimzade, on behalf of the Applicant, gave a general overview of the alternatives and the decision factors taken into account when arriving at the construction compounds.</p>

<p>locations and if consultation with relevant IPs has been concluded and agreed.</p>	<p>Commercial discussion with owners of the compound sites was still ongoing. The Applicant had performed site surveys across the Order limits to identify the most suitable laydown areas to ensure safety and costly and timely delivery of the construction programme by ensuring laydown areas are close to the construction sites they intended to serve whilst also having regard to synergies with other development (potentially sharing some of the construction areas).</p> <p>Furthermore, discussions with landowners have continued, and this informed the compound changes set out in the Changes Application (e.g. removal of the RBT land compound).</p> <p>The Applicant has explained the rationale for the compounds currently being proposed in its response to FWQ 1.6.65 (REP2-024).</p> <p>In response to Action Point CAH-AP3, the Applicant expands on this as follows:</p> <ul style="list-style-type: none"> • The Applicant’s selection criteria for the Temporary Construction Compounds has been: a) safe working conditions within the compound and when accessing and exiting the works areas, b) access to the relevant work front within a fifteen to thirty-minute window, c) proximity to main road networks, d) sufficient size to accommodate 20-30 workers and e) storage for 2-3 weeks of work. Taking account of the Proposed Development locations, the Applicant’s initial understanding of those the sites operate currently, and initial discussions and feedback from landowners the locations in the DCO application were chosen. <p>This was a process that evolved over time, and has continued to evolve post DCO application, as demonstrated by the Change Application.</p>
<p>6(iv) In ExQ 1.6.62 the Applicant was asked about severance and sterilisation of land. Please can the Applicant update the ExA on progress regarding the plots</p>	<p>Mr Phillpot KC, on behalf of the Applicant confirmed that the Applicant remained engaged with National Grid Electricity Transmissions and Navigator Terminals with regards to the plots referred to in the Applicant’s response to ExQ1.6.62.</p>

<p>they highlight in their reply to this question. STG in their DL3 submission suggest that their interests may be sterilised. Please can the Applicant explain whether in reply to Q1.6.62 they have considered severance of interests.</p>	<p>In relation to Navigator Terminals, the Applicant discussed the potential severance of Plots 11/56 and 11/66 during a meeting on 8 November and the potential remedies that may be available within the commercial agreements between the parties. The meeting was productive and the Applicant is hopeful this will be addressed by agreement.</p> <p>The Applicant held a meeting with National Grid Electricity Transmissions on 11 November to further discuss the size and location of the AGI in plot 3/19. The meeting was productive and the parties are hopeful this can be addressed through agreement.</p> <p>Mr Phillpot KC, on behalf of the Applicant, confirmed that no other parties are expected by severed by the proposed development and any concerns about access during construction are manageable.</p> <p>The Applicant notes STG’s position, but considers that its proposals will not sterilise Teesworks development –through the proposed agreements with STG a negotiated position will be able to be reached.</p> <p>In considering whether any other land could be considered to be ‘sterilised’/subject to economic viability concerns, the Applicant notes the conclusions of ES Chapter 18 (APP-071) in respect of Development land:</p> <p>There are multiple planning applications or permissions within the vicinity of the Proposed Development Site that do not correspond to the Proposed Development itself. However, the potential for the impacts at the Proposed Development Site on this receptor are expected to be minimal, with low, temporary levels of disruption and no land take expected. The Proposed Development’s Order limits cross over with the Order limits for Net Zero Teesside (being brought forward by bp entities) (bp, 2021), the red line boundary for ID53 (Outline PP obtained by STDC) and the forthcoming red line boundary for the HyGreen project (being brought forward by bp entities).</p> <p>The Applicant intends to work closely with these developments to ensure that they develop in a co-ordinated fashion that allows the benefits of all projects to be achieved. Given this, and that the</p>
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	<p>Proposed Development aligns closely with STDC’s aspirations for Teesworks for industrial development to be brought forward, it is considered that there would not be a significant effect on development land in respect of these developments. Given this, the effect is Minor Adverse (Not Significant).</p> <p>Applicant notes also aspects of the York Potash DCO are in the Order limits. ES based on that scheme already being in place, but it is now understood to be now delayed. Applicant considers their development is not sterilised, and interactions will be able to be controlled through their Protective Provisions.</p>
<p>6(v) Please could the Applicant comment on the need for a process to consider human rights to be secured during detailed design? If an appropriate process is not secured, how can the ExA be satisfied that the rights granted by the Development Consent Order would be legitimate, proportionate, and necessary?</p>	<p>This item was not discussed at the Hearing but a written submission is provided further to Action Point 4.</p> <p>The submissions made in response to the rest of this item 6 explain the approach taken to defining the Order Limits (and the powers sought within it). That approach is both well-precedented in principle, and inherently proportionate in its outcomes, but the necessary implication is that in the usual way any implications for the human rights of those with an interest in the land must be considered and weighed in the balance by the ExA and Secretary of State at this stage, taking into account the mitigations (through the DCO such as in the Requirements and Protective Provisions).</p> <p>There is no legislative or policy requirement for human rights to be considered again by an independent arbiter, after the grant of the DCO. It is not a ‘reserved matter’.</p> <p>As explained in response to sub-item (i), there are strong existing legal, commercial and practical considerations that effectively serve to control and guide the subsequent exercise of powers once granted. Nothing more is needed, and in that respect this proposed DCO is no different in principle to any other that has been granted for equivalent types of infrastructure.</p>
<p>6(vi) ExA further questions</p>	<p>n/a</p>

7 Crown Interests, Statutory Undertakers, Special Category Land, Compensation, Funding and Other Matters	
<p>7(i) The Applicant will be asked to summarise any outstanding land and rights matters and matters relating to Protective Provisions for Statutory Undertakers if not previously discussed, especially:</p> <ul style="list-style-type: none"> • CATS North Sea Ltd/ Kellas Midstream Ltd; • National Grid Electricity Transmission Plc; • National Gas Transmissions Plc; • Network Rail Infrastructure Ltd; • Northern Electric Plc; • Northern Gas Networks Ltd; • Northern Powergrid Plc; • Northumbrian Water Ltd; • OpenReach Ltd; • Vodafone Ltd; and • PD Teesport. <p>Any Statutory Undertaker or other relevant body in attendance and wishing to</p>	<p>The ExA acknowledge that Statutory Undertakers had been covered earlier during the hearing and asked the Applicant whether there was anything further to cover.</p> <p>Mr Phillpot KC, on behalf of the Applicant, explained that they had not discussed OpenReach and Vodafone. These were not technically Statutory Undertakers, but in any event they are covered by Protective Provisions on the face of the DCO but the Applicant had not had any comments from these parties to date.</p> <p>In addition, Schedule 21 provides protective provisions for protection of railway interests. The Applicant had asked Network Rail several times for comments on these provisions but no response has been received to date.</p>

<p>speak in relation to an objection or issue raised that is relevant to the effects of the Proposed Development on its undertaking, apparatus or land will be invited to put oral submissions to the ExA.</p>	
<p>7(ii) The Applicant’s response to ExQ1 - Q1.6.38 [REP2-024] in terms of Crown Interests is noted. However, the ExA will request an oral update in regard to Crown Interests.</p>	<p>This item was not discussed at the Hearing but a written submission is provided further to Action Point 4.</p> <p>Following a meeting with the Crown’s agents, Carter Jonas, on 8th November, the Applicant anticipates that Heads of Terms will be agreed with The Crown Estate within the next two months, with s.135 consent to follow shortly thereafter.</p>
<p>7(iii) If Section 135 consent from the Crown is not received by the end of the Examination, please clarify how the project could proceed if Crown land has to be removed from the Order land.</p> <p>The ExA may ask other Questions or invite additional oral submissions re Special Category Land.</p>	<p>This item was not discussed at the Hearing but a written submission is provided further to Action Point 4.</p> <p>The Applicant acknowledges that section 135 consent is required before the Secretary of State makes his decision on the DCO application and is therefore working to obtain it as soon as possible, noting that the Crown Estate have consent to other tunnels under the Tees.</p> <p>The Applicant is therefore focussed on ensuring that the project is able to utilise Crown land.</p>

8 Any other CA or TP matters/ Any Other Business	
8(i) Any further potential change request(s) – Without discussing the existing notification of potential change request, received on 15 August 2024, can the Applicant advise on any additional potential change request that it may be considering.	Mr Phillpot KC, on behalf of the Applicant, confirmed there were no other change requests currently proposed.
8(ii) Time permitting, and at its discretion, the ExA may invite other oral submissions concerning any other CA or TP matters or in regard to any other business relevant to the CAH1.	None

Annex 1: Individual Interested Parties

Party	Update
<p>Air Products (Air Products Public Limited Company (Plc); Air Products (BR) Limited (Ltd); Air Products Renewable Energy Ltd; and Air Products Chemicals Teesside Ltd)</p>	<p>Mr Elnur Ibrahimzade, on behalf of the Applicant, explained the Applicant had been continued negotiations to agree a form of protective provisions to provide the necessary protections for Air Products existing infrastructure. The Applicant shared a draft form of protective provisions on Monday 11 November.</p> <p>The Applicant is also in the process of scheduling a meeting to discuss the protective provision and the Applicant hoped to reach agreement by the end of the examination.</p>
<p>Anglo American</p>	<p>Mr Joshua Peat, on behalf of the Applicant, confirmed that the Applicant was working with Anglo American to address their concerns and that there was a monthly meeting to discussion progress. The next meeting is scheduled for 18 November. Many discussions had focussed on the interaction between H2Teesside and the York Potash projects. The Applicant is of the view that the concerns can be addressed through protective provisions. Draft protective provisions (including for Schedule 3) and heads of terms for the voluntary land agreement have been provided to Anglo American.</p> <p><i>Ms Juliet Clarke, on behalf of Anglo American, responded to confirm that Anglo American’s concern was about their ability to deliver their consented project, more details of which are set out in their Relevant Representation (RR-010).</i></p> <p>Mr Phillpot KC, on behalf of the Applicant, explained that the interrelationship between this project and Anglo American’s project, whilst having individual features, is similar to the position on Net Zero Teesside, where protective provisions were negotiated. Mr Matthew Fox, on behalf of the Applicant, added that a copy of the NZT DCO had been submitted at Deadline 1. The protective provisions for this had been heavily negotiated and recognised ‘shared areas’ which Anglo American wanted to be sure that specific outcomes could be achieved. The Applicant appreciates that they are different</p>

	<p>projects, however the principle is about doing the separate projects on a shared area basis so that both projects can be delivered. The draft protective provisions shared with Anglo American are very much based on the NZT version.</p> <p><i>Post Hearing Note: At the Hearing, Ms Clarke raised the query as to whether the Applicant’s crossing of the River Tees would affect the Tees dredge pocket. The Applicant can confirm that it would not – the Applicant’s proposals are far deeper than the dredge pocket.</i></p>
<p>BOC Limited</p>	<p>Mr Joshua Peat confirmed that the Applicant has continued to engage with BOC Limited in relation to protective provisions. He noted that the Applicant does not require any land agreements with BOC Limited. Shortly before Deadline 3, BOC Limited provided an additional spreadsheet detailing where they believe they have further rights or apparatus within the H2Teesside Order limits. The Applicant is reviewing this list has updated the Book of Reference.</p> <p>The Applicant has issued the draft protective provisions requested by BOC Limited, and subject to further explanation from BOC Limited, Mr Peat confirmed that the Applicant should be able to agree the provisions.</p> <p>Mr Elnur Ibrahimzade, on behalf of the Applicant, highlighted to the ExA that the primary challenge in progressing the protective provisions had been the Applicant seeking to gain an understanding of the full interactions between the proposed H2Teesside and existing/ new infrastructure. Mr Ibrahimzade explained that the information provided by BOC Limited at Deadline 1 had been very helpful, but that a technical meeting between the parties’ engineers would be helpful to understand the interactions.</p>
<p>CATS North Sea Ltd/ Kellas Midstream Ltd</p>	<p>Mr Peat confirmed that the Applicant was engaging with CATS North Sea Ltd/ Kellas Midstream Ltd’s in relation to land agreements and protective provisions. Heads of Terms had been issued and the Applicant had received CATS North Sea Ltd/ Kellas Midstream Ltd’s preferred form of protective provisions. The Applicant has reviewed these documents and it appears the majority of the</p>

	<p>provisions can be agreed. A comprehensive, annotated draft of protective provisions sits with CATS North Sea/ Kellas Midstream.</p> <p>Mr Phillpot KC, on behalf of the Applicant, added that with regards to this party, the Applicant was looking at a set of bespoke provisions which go beyond those already on the face of the Order for the benefit of owners of apparatus.</p>
<p>CF Fertilisers UK Ltd</p>	<p>Mr Peat confirmed that the Applicant had continued to engage in discussion relating to the land agreements required by the project. Protective provisions were issued on 26 September and a meeting recently took place to discuss progress on these.</p> <p><i>Mr Nesbit, on behalf of CF Fertilisers UK Limited, summarised CF Fertilisers’ concerns that there set out in their Relevant Representations. Broadly these issues are: the need for compulsory acquisition, alternatives and use of extinguishment/ overriding powers.</i></p> <p>In response to points from Mr Nesbit on behalf of CF Fertilisers:</p> <ul style="list-style-type: none"> • querying the need for compulsory acquisition powers on CF land if their plant is going to be closed and not take on hydrogen; • querying why the ‘eastern route’ for the pipeline in this area could not be brought forward; and • querying why TP is being proposed for plot 1/31, which CF wish to develop. <p>Mr Phillpot KC, on behalf of the Applicant, dealt with the question of ‘need’. He explained this was not a project dependent on commitment from individual up-takers. It was a strategic network to supply potential future offtakers over the lifetime of the development so the Billingham arm, which the CF Fertilisers site relates to, is intended to cater for this emerging market over the course of decades in an area that is dynamic in nature. The specific interest and absence of interest from CF</p>

Fertilisers at this particular time was not crucial to the need for the project or the particular choice in terms of alignment.

- *Post Hearing Note in respect of the three bullet points: The Billingham area has potential for hydrogen demand beyond the CF plant. H2Teesside is in discussions with a number of other existing industrial users in Billingham around offtake of hydrogen; H2Teesside is also aware of future development in the Billingham area, for which hydrogen has been raised as a point of interest. Furthermore, this leg creates the option for CF, or any other operator at or near to its site in the future, to offtake hydrogen from the planned AGI, should there be a change in circumstances. For these reasons, H2Teesside still sees a needs case for hydrogen offtake in Billingham, beyond the CF site itself. Discussions are ongoing with CF around its point on compulsory acquisition and both parties are considering options to resolve concerns.*
- *The Applicant has been in extensive discussions with CF Fertilisers about the routing of the pipeline in this area, which needs to account for a number of constraints in the area, including the crossing of the railway to the north, and the interests of other third parties. The Applicant is continuing to work with CF Fertilisers to seek to find a mutually acceptable solution for the pipeline routing in this location.*
- *The Applicant also needs a Temporary Construction Compound to be able to deliver this section of the pipeline network safely and in an efficient way. Plot 1/31 has been identified as the most suitable Temporary Construction Compound area to enable these works. The Applicant is in discussions with CF Fertilisers in general about CF Fertiliser's land interests within the Order Limits and both parties are considering options to resolve concerns.*

Hartlepool Borough Council	Mr Peat confirmed that no land interests held by Hartlepool BC had been identified in the Order limits.
Industrial Chemicals Ltd	<p>Mr Peat confirmed that the Applicant had not previously engaged with Industrial Chemicals Ltd as their land interests lie outside the red line boundary of the proposed development.</p> <p>On receipt of Industrial Chemicals' Written Representation, the Applicant has now contacted the Affected Party to initiate discussions around protective provisions, including in relation to managing access impacts. Protective provisions have not yet been issued.</p>
H2 North East Ltd	<p>Mr Ibrahimzade, on behalf of the Applicant, confirmed that following Written Representations, monthly meetings had been set up to discuss the various project interaction areas and the best way for parties to progress. The Parties have agreed to enter into an effective interface agreement based on the projects so a project doesn't prejudice the deliverability of the other. The Applicant was looking to share a first draft of the interface agreement in due course.</p> <p>The Applicant also noted the confirmation from these parties that their H2 North East hydrogen project is seeking a section 35 Direction to be brought into the DCO regime. The Applicant considers that this can be accounted for in the Protective Provisions.</p>
INEOS Nitriles (UK) Ltd	<p>Mr Peat, on behalf of the Applicant, confirmed that the Parties were in negotiations on both land agreements and protective provisions. A side agreement (and protective provisions) was issued on 31 October and Heads of Terms on 8 November.</p> <p>In response to a comment from Mr Nesbit on behalf of Ineos, Mr Phillipot KC, on behalf of the Applicant, explained that bluntness of CA needed to be understood in light of the intention to use protective provisions. The alternative would be a mired in commercial negotiations with multiple parties.</p>

<p>Lighthouse Green Fuels Ltd</p>	<p>Mr Peat confirmed that the Applicant had been in regular correspondence with Lighthouse Green Fuels regarding the interactions between the proposed development and with Lighthouse Green Fuels' own project. The parties held a meeting on 5 November. The parties do intend on progressing land agreements and protective provisions, though no documents have been issued so far.</p> <p>Mr Ibrahimzade, on behalf of the Applicant, explained that documents had not been issued due to the need to gain a greater understanding of the level of interaction between the proposed H2Teesside project and the proposed Lighthouse Green Fuels' sustainable aviation fuel project.</p> <p>Mr Phillpot KC, on behalf of the Applicant, confirmed there was constructive and productive engagement taking place with a common objective to make sure neither scheme was prejudiced. Progress would be reported.</p> <p><i>Post Hearing note: At the Hearing, queries were asked on two matters:</i></p> <ul style="list-style-type: none"><i>whether, given the lack of information currently available for the Lighthouse project, whether Protective Provisions for their benefit would be included in the draft DCO, or could be dealt with in Lighthouse's forthcoming DCO application; and</i><i>if the hydrogen AGI currently proposed for 09/41 could be moved.</i> <p><i>An update is provided below:</i></p> <ul style="list-style-type: none"><i>The Applicant and Lighthouse Green Fuels Ltd have discussed the principles for drafting and negotiating appropriate protective provisions to provide protections for existing infrastructure as well as future infrastructure to be subject to a future application for development consent by Lighthouse Green Fuels Ltd. Appropriate protective provisions will be drafted and negotiated to protect existing infrastructure. Further details of this existing infrastructure will be provided to the Applicant by Lighthouse Green Fuels Ltd in due course.</i>
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	<ul style="list-style-type: none"> • <i>Having regard to the relative design stages of the two projects, the parties intend that ‘high level’ protective provisions will be drafted and negotiated for the benefit of the future infrastructure proposed by Lighthouse Green Fuels Ltd. The parties consider these protective provisions will address constructability principles to enable co-operation in the construction and operation of the Proposed Development and the Lighthouse Green Fuels project. It is considered that as the Lighthouse Green Fuels project is further refined and nears DCO application submission, the parties will be able to agree more detailed protective provisions, with any such changes to be addressed by the Lighthouse Green Fuels development consent order.</i> • <i>The Applicant is in discussions with Lighthouse Green Fuels Ltd regarding the AGI plot, 09/41, in light of the on-going design development of both projects, and both parties are working together to resolve this concern.</i>
National Grid Electricity Transmission Plc	Mr Peat confirmed that the Applicant had been in correspondence with National Grid Electricity Transmission and their representatives since August 2022. Heads of Terms were issued in April 2024 and the preferred form submitted in May 2024. The Applicant had received a copy of National Grid Electricity Transmission’s preferred protective provisions and was in the process of reviewing those.
National Gas Transmission Plc	Mr Peat confirmed that the Applicant had received National Gas Transmission’s preferred form of side agreement and protective provisions and is in the process of reviewing those. Mr Peat, on behalf of the Applicant, anticipated that these are intended to agreed prior to the end of examination.
Natara Global Ltd	Mr Peat confirmed that the Applicant was engaged in negotiations with Natara Global Ltd following a site meeting on 12 September. The Applicant has also been engaging with Natara Global from a technical perspective and acknowledges its concerns (particularly around access for HGVS) and is committed to addressing them through protective provisions. Heads of Terms and protective provisions have been issued.

Navigator Terminals Ltd	
Northern Powergrid Plc	<p>Mr Peat confirmed that Northern Powergrid had provided the Applicant with their preferred version of the side agreement. The Applicant provided its comments on the side agreement on 11 November 2024. The Applicant has offered a meeting with Northern Powergrid to discuss the draft side agreement and protective provisions and they are seeking to understand whether land agreements are required and will discuss this in the upcoming meeting.</p>
Northumbrian Water Ltd	<p>Mr Peat confirmed that the Applicant had recently met with Northumbrian Water Limited to discuss the technical interfaces between the proposed development, land interests and assets. Northumbrian Water Limited are currently drafting protective provisions. The Applicant has also recently issued Heads of Terms.</p>
NSMP Entities (Northern Gas Processing Ltd/ Teesside Gas Processing Plant Ltd/ Teesside Gas and Liquids Processing)	<p>Mr Peat confirmed that the Applicant had held initial meetings and high-level discussions relating to the land and assets within the Order limits. The Heads of Terms have been provided for their consideration and the Applicant is in discussions with NSMP regarding the need for bespoke protective provisions.</p> <p>Mr Phillpot, on behalf of the Applicant, confirmed that protective provisions had been prepared on the basis of those which appeared on the NZT Order but the Applicant had been informed that NSMP wanted to follow a different approach which the Applicant has queried and will continue to discuss with them..</p>
PD Teessport Ltd	<p>Mr Peat confirmed that initial meetings had been held and draft Heads of Terms had been issued by the Applicant. The Applicant would follow up with protective provisions in due course.</p> <p><i>Mr Nesbit, on behalf of PD Teessport, confirmed the primary concerns related to the proposed pipelines that cross the River Tees and also the combination of rights, acquisition and extinguishment powers on access ways and pipeline corridors. Specifically, there is an area of pink land which is the</i></p>

	<p><i>proposed tunnel head site and some blue land for CA rights. There is a slither of land known as Northern Gateway Container which is a fully consented deep sea terminal. The Applicant has not justified reasons for the extent of land. A technical meeting was requested to understand the potential interaction between piles in that area and the proposed pipeline.</i></p> <p>Mr Ibrahimzade, on behalf of the Applicant, acknowledged PDT’s concerns. In relation to the river crossing, the Applicant is going through a detailed design process. Mr Phillpot KC, added that it was clear from today’s submissions why flexibility is needed in this part of the UK with plans as it enables the project to be woven in amongst the various existing and proposed infrastructure.</p> <p><i>Post-Hearing Note: In response to Mr Nesbit, on behalf of PD Teessport about the flexibility sought in the extent of land powers in and around the proposed tunnel head site, and in the context of PD Teesport’s Northern Gateway Container proposals, the response the Applicant has provided to Navigator Terminals above is equally applicable.</i></p>
Mrs S. Peel	<p>Mr Peat confirmed that the Applicant has agreed Heads of Terms with Mrs Peel. Following a meeting on 28 October, significant progress had been made and the Applicant anticipated these would be concluded within a couple of weeks.</p>
Redcar Bulk Terminal Ltd	<p>Mr Peat confirmed that several meetings had been held to discuss the technical and commercial requirements related to the proposed development, as well as to the landowner’s interests. Engagement between the parties is focused on discussing these requirements and clarifying key details needed to advance the Side Agreement and the commercial agreement. RBT had welcomed the Applicant’s proposals to remove the compound on their land in the Change Request.</p>
Redcar and Cleveland Borough Council	<p>Mr Peat confirmed that Redcar and Cleveland Borough Council is the owner of a small plot of land within the Order limits behind the highway associated with the A1085. Parties have indicated a land agreement is not required in respect of this land.</p>

<p>SABIC UK Petrochemicals Ltd</p>	<p>Mr Peat confirmed that the Applicant had held meetings with SABIC UK Petrochemicals Limited for H2Teesside and was actively addressing the concerns raised in their Relevant Representations. Draft Heads of Terms and protective provisions had recently been issued to SABIC. The Applicant notes that SABIC have some concerns with these protective provisions (as noted by Mr Dagg on their behalf at the Hearing) and is willing to discuss this with SABIC.</p> <p>Mr. Philpott KC confirmed that conceptually, there is nothing to stop Protective Provisions dealing with matters within a pipe, as well as the pipe itself. The need for this in the context of Sabic’s interests is still being discussed with them.</p>
<p>Sembcorp Utilities (UK) Ltd</p>	<p>Mr Peat confirmed that the Applicant had been in discussions with Sembcorp regarding the Proposed Development and its scope and was working with Sembcorp Utilities (UK) Limited to refine details and requirements. The parties have regular weekly meetings. The Applicant has now issued Sembcorp with draft Heads of Terms and protective provisions for the various interactions and land agreements required for construction and development.</p> <p>In response to a comment from Mr Nesbit that if Protective Provisions could not be agreed, CA powers over Sembcorp’s interests should not be granted, Mr Philpott KC set out that it was considered that this does not align with good practice – the position should be that, if necessary, the Secretary of State should choose between the parties’ differing preferred form of protective provisions which may or may not include controls on compulsory acquisition.</p>
<p>South Tees Group</p>	<p>Mr Peat explained that South Tees Group (STG) would supply the first draft of protective provisions. Discussions had been ongoing for 2 years and the parties were close to reaching voluntary agreement in respect of Phase 1 land.</p> <p><i>Mr Henderson, on behalf of STG, confirmed that its fundamental concern was to ensure the Teesworks site is regenerated in a way that maximises the benefits it can deliver. He felt that the</i></p>

Order limits for the Main Site construction area and Phase 2 were too extensive and will adversely affect the regeneration proposals for the area.

Mr Henderson, on behalf of STG, believed the compulsory acquisition tests for Phase 2 land were not made out and the land should be removed from the Order limits. He confirmed that STG had sent an alternative compound location to the Applicant to consider.

Mr Phillpot, on behalf of the Applicant, responded to points raised by Mr Henderson.

The Applicant's approach had been to focus on Phase 1 and then move to Phase 2. Phase 1 negotiations have reached a well-advanced stage and so the Applicant commended negotiations for Phase 2. STG are now suggesting that Phase 2 should not be proceeded with. In accordance with the Secretary of State's section 35 direction, the Applicant has brought forward a two-phase scheme which would deliver 12% of the UK's hydrogen target for 2030 and meeting the net zero challenge will only be possible if the necessary infrastructure is developed. The project is of national significance. It is noted that the Applicant's position remains unchanged – it is STG's position which has changed, given that its Relevant Representations did not object to Phase 2.

Phase 2 would provide 6% of the UK's total hydrogen target. STG mention a proposed development but the developer and development is unknown and the planning position is unknown so the Applicant cannot respond to the suggestion that another development should take priority.

Mr Phillpot KC explained that the Applicant had sought to make clear that the size of area shown for Phase 2 is reflective of the fact that the location of Phase 2 is not yet known. There were various reasons for that as set out in the Interrelationship Document including lack of GI data (which is particularly important in this area given its history, and which Teesworks had committed to do in its role as facilitating the regeneration of the area), the need to ensure appropriate separation distances between Phase 1 and Phase 2, the need to manage potential overlap with the HyGreen project, and the need for productive engagement with STG. For the avoidance of doubt, Mr Phillpot KC explained that the Applicant does not propose to acquire land for use by HyGreen - it is included in the Order

	<p>limits to allow for the possibility that HyGreen does not come forward. Currently, HyGreen is awaiting a planning decision from RCBC.</p> <p>As set out in ISH 1 (REP 1-008), the Applicant confirmed that there is some shared infrastructure between Phases 1 and 2 including incoming utilities, office and administrative buildings, where this has been duplicated, it is to ensure sufficient availability and reliability of hydrogen supply to customers. The non-sharing of infrastructure has minimal impact on the Main Site Order limits, but the Applicant has sought to take an approach that allows for efficiencies to be made where possible by the sharing of infrastructure. Regarding the alternative construction laydown area proposed by STG, Mr Ibrahimzade confirmed that the area suggested was not suitable for safe, efficient and timely delivery of the Proposed Development given that there are railways and an active road between that laydown area and the construction site. The Applicant would respond in writing if further details are submitted by STG to explain why their proposed alternative compound location is unsuitable.</p> <p><i>Post-Hearing Note – Further post-hearing discussions have been held with in respect of its concerns around Phase 2. The Applicant considers that agreement can be reached with STG in terms of managing the impacts of Phase 2 of the Proposed Development to its landholdings, and is working closely with STG to achieve this.</i></p>
<p>Stockton-on-Tees Borough Council</p>	<p>Mr Peat confirmed that the Applicant had held a number of meetings, the next one was due to take place on 25 November in relation to open space land and open space replacement land and associated land agreements. The Heads of Terms were being progressed.</p>
<p>Venator Materials Ltd</p>	<p>Mr Peat explained that Venator Materials Ltd had engaged in negotiations and recently agreed Heads of Terms. The discussion regarding the long form legal agreements for the relevant voluntary land was progressing. Draft protective provisions had been issued.</p>