

# 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: 8.29 Applicant's Response to Deadline 5 Submissions

The Planning Act 2008



**Applicant: H2 Teesside Ltd**

Date: January 2025

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## **1.0 INTRODUCTION**

### **1.1 Overview**

1.1.1 This document has been prepared on behalf of H2Teesside Limited (the 'Applicant'). It relates to an application (the 'Application') for a Development Consent Order (a 'DCO'), that was submitted to the Secretary of State for Energy Security and Net Zero ('DESNZ') on 25 March 2024, under Section 37 of the Planning Act 2008 (the 'PA 2008') in respect of the H2Teesside Project (the 'Proposed Development').

1.1.2 The Application has been accepted for examination. The Examination commenced on 29 August 2024.

### **1.2 The Purpose and Structure of this Document**

1.2.1 This document provides the comments of the Applicant in response to the submissions made by Interested Parties at Deadline 5 of the Examination.

1.2.2 This document does not respond to comments made in respect of progress with discussions on Protective Provisions, as an update will be made on those matters at the Compulsory Acquisition Hearing (and the summary of case which will follow it, which will confirm the Applicant's position in respect of matters still in dispute in respect of those Protective Provisions). In respect of Royal Mail, the Applicant's position is as it stands in its response to their Relevant Representation (REP1-007).

1.2.3 Appendices have been provided where they are referred to in the Applicant's response.

## 2.0 RESPONSE TO LANDOWNER / ASSET HOLDER INTERESTED PARTIES DEADLINE 5 SUBMISSIONS

Table 2-1: Response to Landowner / Asset Holder Interested Parties Deadline 5 submissions

PARTY	SOURCE DOCUMENT(S)	IP ISSUE/ THEME	APPLICANT RESPONSE
South Tees Group	REP5-089 and REP5-090	<p>STG set out that:</p> <ul style="list-style-type: none"> <li>• Teesworks Limited needs to be defined in the draft DCO; and</li> <li>• It still has concerns in respect of Requirement 33, namely: the term “part” appears to be used simultaneously in relation to a physical part of the H2T project, and a part of the NZT requirements – the connection between a “part” of the authorised development and the “relevant” part of NZT requirements 3 and 11 is therefore not entirely clear; and</li> </ul> <p>2.3.2 sub-paragraph (c)(ii) needs be clear that the infrastructure is to be utilised for the purposes of the authorised development in that same form as constructed and operated under the NZT scheme</p>	<p>In response to bullet point 1, the Applicant acknowledges that as Teesworks Limited is referred to in article 8 of the draft DCO (Document Ref: 4.1) it should also be defined in article 2. The Applicant will insert a definition of Teesworks Limited in article 2 of the draft DCO to be submitted at Deadline 6A.</p> <p>In response to bullet point 2, the Applicant will make the following amendments to Requirement 33(1) and 33(3) of the draft DCO to be submitted at Deadline 6A:</p> <ul style="list-style-type: none"> <li>• Replace references to “relevant part of” with “the requirements in the relevant paragraph of” in Requirement 33(1)(a), (b) and (c) as well as Requirement 33(3); and</li> <li>• In Requirement 33(1)(c)(ii), insert “in the form as discharged pursuant to The Net Zero Teesside Order 2024” after “utilised”.</li> </ul> <p>The updated version of Requirement 33 will then read as follows (deletions shown in strikethrough and insertions shown in bold):</p> <p>33.—(1) Requirement 3 (detailed design) or 10 (surface and foul water drainage) in this Schedule may be deemed to be discharged in respect of any part of the authorised development where—</p> <p>(a) <del>the relevant part of</del> <b>requirements in the relevant paragraph of</b> requirement 3 (detailed design) or 11 (surface and foul water drainage) of The Net Zero Teesside Order 2024 <del>has</del> <b>has</b> been discharged pursuant to The Net Zero Teesside Order 2024;</p> <p>(b) the discharge of <del>that relevant part of</del> <b>the requirements in the relevant paragraph of</b> requirement 3 or 11 in sub-sub-paragraph (a) satisfies all of the relevant requirements in relation to the <del>relevant part of requirements in the relevant paragraph of</del> requirement 3 or requirement 10 in this Order; and</p> <p>(c) the discharge of <del>that relevant part of</del> <b>the requirements in the relevant paragraph of</b> requirement 3 or 10 of this Order is in respect of infrastructure that is—</p> <p>(i) to be constructed, maintained and operated in the form as discharged pursuant to The Net Zero Teesside Order 2024; and</p> <p>(ii) also to be utilised <b>in the form as discharged pursuant to The Net Zero Teesside Order 2024</b> for the purposes of the authorised development.</p>

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		<p>STG wish for Steel River Power Limited to become an Interested Party and benefit from Protective Provisions in the DCO.</p> <p>STG's reiterates its position as submitted at Deadline 3, namely that the Applicant should be assessing the impacts of remediation works in their ES, in the event that STG (Teesworks) does not remediate the land. STG would only undertake remediation and demolition if and when an agreement is in place with the Applicant. If no agreement is entered into with the Applicant (or an alternative user if the Proposed Development does not proceed), STG would likely not undertake the works. STG also refers to its answer to ExQ2.1.8 below.</p>	<p>(2) Sub-paragraph (1) is subject to obtaining the approval of the relevant planning authority.</p> <p>(3) Where the relevant part of requirements in the relevant paragraph of requirement 3 or 10 of this Order requires the relevant planning authority to consult with a third party, then that third party must be consulted before giving approval under sub-paragraph (2).</p> <p>The Applicant accepts that Steel River Power Limited can become an Interested Party and benefit from Protective Provisions in the draft DCO (Document Ref: 4.1). This will be added to the draft DCO to be submitted at Deadline 6A.</p> <p>As noted in Paragraph 10.5.13 of ES Chapter 10 (Geology, Hydrogeology and Contaminated Land) [APP-062] the Applicant expects STDC to undertake the remediation of the Main Site. However, a worse-case scenario was assumed in preparation of the ES, where the remediation works had not been undertaken by STDC for any reason.</p> <p>The Applicant has not sought consent for demolition of structures on the Phase 2 land as it has assumed that STG will do it pursuant to its existing consents. Substantial demolition has already been completed by STG in the Phase 2 area..</p>
Sabic	REP5-086	<p>Sabic re-iterates its concern that the Applicant should be able to demonstrate that it has accounted for the costs set out in its representations (e.g. re-starting the Cracker) in estimating the compensation that may be due if DCO powers are used, that it will have sufficient funding to cover those costs, and that the protective provisions need to ensure the highest level of protection for Sabic's assets.</p>	<p>As set out in its responses to ExQ1.6.27 to 32 [REP2-024], the Applicant and its agents, Dalcour Maclaren, have given appropriate consideration to the relevant compensation provisions to ensure that all compensation potentially payable to affected parties is taken into account and that sufficient funding is available.</p> <p>The Funding Statement takes account of anticipated costs both for acquiring land and also allowances for associated or ancillary compensation which may be payable if DCO powers are used, including appropriate sums by way of contingency provision.</p> <p>However, the Applicant did not include the costs of compensation in its scheme funding estimate for the large items indicated by Sabic, as it is not considered that the events suggested by Sabic could occur. The Applicant assumed that protective provisions would be in place to stop such consequences occurring as a result of the use of its powers. In any event even in the worst case that this were to occur, the Applicant has demonstrated that it would be able to cover the cost in the Funding Statement.</p> <p>bp and ADNOC have already committed significant resources to the development of the project, including feasibility studies, engineering design, expert cost estimation and stakeholder management. As large international energy companies with strong, robust and long-standing sovereign wealth backing and world-leading financial covenant strength, bp and ADNOC have the</p>

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		<p>Sabic wishes to see not only that there is a DCO Requirement ensuring that there is no dredging within the River Tees, but also that article 9(2) is deleted to ensure that PDT are able to control such activities (quoting the Powergen case)</p>	<p>financial resources to fund and/or finance the project including any associated compensation payments or costs.</p> <p>This would be supplemented through the provision of appropriate security pursuant to article 47 of the Order, as explained in more detail in the Applicant's response to ExQ2.6.11 [REP5-044].</p> <p>As far as protective provisions are concerned, the Applicant agrees that these can ensure an appropriate level of protection for SABIC's assets whilst enabling the Proposed Development to be brought forward safely, efficiently and economically. Draft protective provisions have been included in favour of SABIC at Schedule 34 of the most recent version of the dDCO [REP5-006]. These are based on those incorporated in favour of SABIC as part of the recent Net Zero Teesside DCO which involved (in substance) the same potential interactions as the current Proposed Development. The parties remain in active negotiations to seek final agreement of same during the course of the examination.</p> <p>The Applicant considers that Sabic's concern does not in fact arise. Not only has the commitment been made clear in the FCEMP at Deadline 5 on this point, but it is also the case that the DCO does not include any powers to dredge in the River Tees. As such, the Applicant could only undertake such dredging if authorised pursuant to other consents, including PDT's. Furthermore, due to the FCEMP commitment, the Applicant would also have to have obtained approval to a change to the DCO to move away from that commitment (as the detailed CEMPs could not be 'substantially in accordance with' the fCEMP if such an approach was taken, as required by Requirement 15). Any move to dredging would therefore be subject to substantial scrutiny.</p>
PD Teesport	REP5-082	<p>PDT previously raised the issue relating to their lease over the emergency access road at Greatham Creek. PDT now seek to clarify the position here. PDT have a lease with the Crown Estate Commissioners which is not recorded in the BoR. Both the lease and the plan are attached for reference. We believe that the lease relates to plot no.s 7/16, 7/22, 7/26, 7/27, 7/28 and potentially 7/6, 7/15, 7/23 and 7/24.</p> <p>PDT would be grateful if the Applicant could review the lease plan and update the BoR accordingly.</p>	<p>The Applicant acknowledges that the lease plan provided is not a registered title with Land Registry and, as such, has not been included in the BoR. However, upon reviewing the lease plan, it is evident that PDT holds a lease over the emergency access road for plots 7/6, 7/16, 7/19, 7/22, and 7/26. For plots 7/27 and 7/28, these are classified as public highway, and therefore the lease does not extend to these areas. The BoR will be updated to reflect the additional plots PDT have an interest in.</p>
Industrial Chemicals	REP5-074 and REP5-075	<p>ICL set out that they wish to be provided with sufficient reassurance that the Applicant's works and traffic regulation measures to Huntsman Drive and Seaton Carew Road will not prevent access and egress to their Port Clarence site, even if temporary diversions are required.</p>	<p>The Applicant has responded to Industrial Chemicals concerns and anticipates that protective provisions can be agreed that will resolve Industrial Chemical's concerns.</p>
Anglo American	REP5-069	<p>The issue of the Environmental Permit has been the subject of ongoing discussion with the Applicant. Anglo American has reviewed the materials published at Deadline 4 relating to this issue, including the Applicant's Response to Deadline 3</p>	<p>The Applicant is not agreeable for the Environmental Permit to be transferred to the Applicant for the reasons outlined in Applicant's Response to Deadline 3 Submissions [REP4-013] at paragraph ANGLO1 and considers that Anglo</p>

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		<p>submissions (REP4-013). The Applicant has suggested that a scheme for monitoring for leachate and landfill gas would be sufficient to manage these concerns. Anglo American cannot accept this proposal because it does not sufficiently mitigate the concern, which is that should the H2T works cause a breach of the Environmental Permit, all liability rests with Anglo American. There are areas of proposed works that are within the landfill permit boundary and historically filled ground that present risk of such breach. As such, before Anglo American can be in a position to agree to an increased monitoring proposal, an agreement must be reached to indemnify Anglo American in the event that any impact is caused by the Applicant's works. A scheme restricted to monitoring provides no such indemnity, providing no recourse in the event of the Applicant's works causing harm.</p> <p>On the basis that Anglo American has significant liability under the Environmental Permit, it is entirely reasonable that where the proposed H2 Teesside works might cause a breach of the requirements of that permit, it should be indemnified by the Applicant. Anglo American is seeking to include provision to this effect in the Side Agreement, referred above.</p> <p>Anglo American considers that without the provision of this indemnity, a transfer of the Environmental Permit is the only acceptable solution, as identified to the Examining Authority in earlier submissions.</p>	<p>American's concerns can be dealt with through appropriate drafting in the Protective Provisions, building on what is already in those Protective Provisions and in article 48.</p>
NGET	REP5-064	<p>For the reasons which are articulated in the Engineering Constraints Report and the Constraints Assessment, each of which forms part of NGET's Written Submission at Deadline 5, NGET does not consider there to be any conceivable scenario whereby the disposal of, or grant of rights over, land within its control in order to facilitate those elements of the Authorised Development which are proposed to be undertaken in the immediate vicinity of Saltholme Substation, including but not limited to Work Nos. 6A.1 and 6B.1, 9 and 10A.1 (as defined in the Draft Order), will be compatible with its statutory duties and transmission licence obligations. Without prejudice to NGET's primary position, in the event that a disposal could be contemplated, it is likely that Ofgem's prior consent would likely be required in respect of at least part of the land in question.</p> <p>So far as NGET is aware, and with reference to Paragraph 6.18 of NGET's Written Representation [REP2-068], the Applicant has continued to proffer very little evidence in order to demonstrate the absence of suitable alternative locations for constructing the relevant aspects of those parts of the Authorised Development comprising Work Nos. 6A.1 and 6B.1, 9 and 10A.1 (as defined in the Draft Order). From NGET's perspective, the continued absence of a developed consideration of reasonable alternatives (alongside the notable omission of a compelling justification in favour of proceeding with the current alignment of Work Nos. 6A.1 and 6B.1, 9 and 10A.1) constitutes a significant deficiency in the adequacy of the Applicant's environmental impact assessment (pursuant to Paragraph 2 of Schedule</p>	<p>The Applicant has reviewed NGET's submission, the Engineering Constraints Report and the Constraints Assessment which pertain to the delivery by NGET of an expansion of the Saltholme 275kV and 132kV Substation within the boundaries of NGET's existing freehold within the Order Land. The Engineering Constraints Report includes three potential design options for the Saltholme Substation expansion and expresses a preference for Option 1a.</p> <p>The Applicant considers that a compromise solution can be found that would allow the Saltholme Substation expansion to come forward as well as the Proposed Development. The Applicant notes that this is an ongoing discussion point between the parties which will not be determined by the end of Examination and will be progressed by negotiation.</p> <p>This section of the Hydrogen Distribution Network is needed to connect to a potential offtaker and a potential connection to Project Union and natural gas system for blending to the North of NGET's Saltholme substation</p> <p>In respect of the localised routing at the substation:</p> <ul style="list-style-type: none"> <li>The proposed route avoids environmentally sensitive areas which have Special Protection Area (SPA) status. Alternative routes that were considered but disregarded because of environmental constraints were ones through the SPA to the north of the A1185 road, to the east of the substation, and through the SPA to the west of the substation outside of NGET land interests.</li> </ul>



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		4 to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017).	<ul style="list-style-type: none"> <li>There are a significant number of buried and above ground services to the east of the Salthome substation. Alternative routes that ran east of the substation, between the substation and the A1185 road, were not selected due to existing natural gas pipeline, existing overhead cables and pylons, buried electrical cables as well as access roads into NGETs site.</li> </ul> <p>In respect to the AGI (Works 6B.1)</p> <ul style="list-style-type: none"> <li>Based on expected flowrate demand by offtakers, the hydrogen pipeline from the H2Teesside plant to the offtaker north of NGET is selected to be 24" (610mm) diameter. The pipeline branch downstream to Billingham is expected to be smaller diameter. The proposed AGI on NGETs land interests is a pigging station to allow in-line inspection 'pigs' to be run through the smaller diameter downstream branch. The project philosophy is that all pipelines are piggable. A 'pig' cannot traverse through a large diameter change, hence where they occur a pigging station is required.</li> <li>The Pigging Station AGI is located as close to the Linkline corridor as feasible at the point where the pipeline leaves that corridor (noting that an AGI would not be able to be built in the Linkline corridor itself). Whilst this is on NGETs land interest, the Applicant sought to avoid sterilising land by placing the AGI in the southwest corner of the plot. This means that the AGI is outside of the nearby SPA, and avoids the nearby pylon as much as possible.</li> <li>Engineering options which avoid the need for this AGI would result in 'doubling back' of pipelines. For example, moving the pigging equipment ('pig trap') to the AGI to the north would require a second 'dual' pipeline back through NGET land, increasing total pipeline length and therefore interference with NGET land. Deleting the 'pig trap' entirely was disregarded because it would lead to a length of pipeline which cannot be inspected through in-line inspection tools.</li> </ul>
Mission to Seafarers	REP5-093	The Missions to Seafarers seek clarity on: <ul style="list-style-type: none"> <li>Timescales for this project. That is, the number of years disruption can be expected for (specifically with reference to access to the Seafarers Centre on Seal Sands road).</li> <li>A conversation with H2Teesside before written communications begin on any aspect of road closure or restricted access.</li> </ul>	The Applicant expects to have the main construction compound for Works north of the Tees River in a laydown area along Seal Sands Road. This will increase background traffic levels due to construction traffic and daily commuting by workers for the duration of pipeline construction. However, it is not envisaged that this increased level of background traffic will significantly or affect 3 <sup>rd</sup> parties as day to day vehicle movements will not require Traffic Management in the same way that pipeline construction works may, which are described below. The Applicant envisages that any road closure affecting access to the Seafarers Centre on Seal Sands Road will be for specific construction activities relating to the hydrogen pipeline (Work No. 6A.1) in the corridor adjacent to Seal Sands Road, for example whilst lifting the pipeline onto the existing pipe bridge at the entrance to the centre. These construction activities would be temporary in

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			<p>nature and managed through normal Traffic Management processes. These will be able to be planned through engagement with the Centre to ensure disruption to its users is minimised.</p> <p>Furthermore, any works or construction access along Seal Sands Road will not prevent the utilisation of that road by other parties, with localised diversions being put in place if required, again as part of Traffic Management.</p> <p>The Applicant will include a representative from the Mission to Seafarers in the Local Liaison Group to be established under Requirement 25 of the dDCO [REP5-006].</p>

### 3.0 RESPONSE TO STATUTORY BODIES' DEADLINE 5 SUBMISSIONS

**Table 3-1: Response to Statutory Bodies' Deadline 5 Submissions**

PARTY	SOURCE DOCUMENT(S)	IP ISSUE/ THEME	APPLICANT RESPONSE
Stockton on Tees Borough Council	REP5-061	<p>SBC have already confirmed that the replacement land would comprise a mosaic of plantation woodland, species rich grassland and public access to connect to their existing property, although the final detail is dependant on the questions already asked. SBC also proposed that ongoing management funds would be preferred by means of a commuted lump sum as opposed to a management agreement or management by a third party once the transfer is complete. An external consultant (Brockthorpe Consultancy) has been instructed to now act on behalf of the Council in relation to the replacement land as well as the pipeline easement.</p> <p>It should be noted that the land to be given up and the shared access corridor are both designated as Local Wildlife Site for the presence of Great Crested Newt and represents terrestrial habitat. Similarly, it also provides connectivity from adjoining terrestrial habitat to a potential breeding pond which will be lost post development. Suitable mitigation would include the creation of hibernacula in the neighbouring woodland and the creation of a Great Crested Newt breeding pond to the north / restoration of a deteriorated waterbody in the adjacent compartment of the Country Park. Pond creation can be achieved by means of District Level Licencing legislation.</p>	<p>The Applicant can confirm that these matters are under discussion with the Council. It is not adverse in principle to the concept of a commuted sum, but further discussion is required of the detail of this.</p> <p>The Applicant notes that the land affected by the Applicant's proposals, including the use of the existing access route, are within the Cowpen Bewley Woodland Park Local Wildlife Site. This is assessed in the Original ES and found to be a Significant (Moderate Adverse) Effect on Woodland loss, as Cowpen Bewley Woodland Park LWS cannot be avoided [APP-064]. Chapter 6: Need, Alternatives and Design Evolution [APP-058] and the Applicant's responses to ExQ1 Assessment of Alternatives Q1.2.6 to 1.2.8 [REP2-020] describes why this land is required. Furthermore, Appendix 23E [REP5-032] notes that the permanent loss will be limited to 18,615m<sup>2</sup> of plantation woodland, representing 6.2% of the park's total size, and that the proposed replacement land will compensate for this by providing 20,234m<sup>2</sup> of woodland (equivalent to 6.7% of the park's total size).</p> <p>Strategic mitigation for GCN will be provided under the District Level Licensing Scheme (see reference to this at [REP5-009]). The Applicant has joined Natural England's District Level Licensing scheme and has submitted the counter-signed Impact Assessment and Conservation Payment Certificate (IACPC) from Natural England into the Examination at Deadline 6. The Applicant would like to make it clear that it is not the 'potential breeding pond' which will be lost, merely the 'connectivity from adjoining terrestrial habitat' and this will only be lost temporarily whilst the pipeline is installed.</p>
Redcar and Cleveland Borough Council	REP5-060	<p>RCBC notes the information provided in the Framework Construction Traffic Management Plan Doc Ref 5.16 and the plan Plate 3-1: HGV Designated Route Plan which highlights both the A66 and A174 as preferred routes. It also notes the provisions of requirement 18 (Construction traffic management plan) of the draft DCO and the requirement to seek agreement of construction traffic management with local highways authorities. For clarification, it should be noted the stretch of highway connecting the A174 in the south (Greystones Roundabout) to the A66 in the north (West Gate Roundabout) is designated the A1053 so it would be useful for any routing narrative to reflect that connection.</p>	<p>The Applicant has updated the pink route indicated on Figure 15-2 to reflect the portion of the route that utilises the A1053. Plate 3-1 of the Framework CTMP has also been updated to reflect this change. Updated versions of both Figure 15-2 and the Framework CTMP have been submitted into the Examination at Deadline 6.</p>
Environment Agency	REP5-062	<p>The EA suggests that the Permit has not been duly made.</p>	<p>The Applicant confirms that the environmental permit application has been duly made – the confirmation email is appended at Appendix 1 of this document.</p>
MMO	REP5-067	<p>Schedule 1 Article 2 of the dDCO lists all "authorised development" (Works 1-11) of which it is noted that possible impacts are being assessed with the Environmental</p>	<p>The only item of relevance to the MMO, that will involve works taking place below MHWS is as follows:</p>

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		<p>Statement (ES), however, it is noted that the final paragraph of Schedule 1 states “further ancillary development” other works or operations for the purposes of or in connection with the construction or maintenance of the authorised development within the order limits. The text further states “they are unlikely to give rise to any materially new or materially different environmental effects which are worse than those assessed in the ES”. The MMO would like to remind the Applicant that any of the “further ancillary development” works of which occur below MHWS may require regulatory approval and as such a marine licence. The MMO requests that the Applicant provides clarification on the items listed occurring or not occurring below MHWS. Notably, but not limited to (a) surface water drainage systems, (n) piling.</p> <p>In reference to the MMO’s previous comment (point 1.1.1, REP4-026). The MMO notes the approach concerning corridor width and raised potential flood risk implications has been accepted by the EA. The MMO notes that the Applicant has stated that most above ground pipeline corridors are pre-existing and therefore would not be able to be raised but will be assessed for flood resilience design. It is the MMO’s understanding that the narrower corridor width related to the location of the HDD path stated to be preferred by the EA. Can this be confirmed/verified to be the case by the Applicant for MMOs clarification.</p> <p>In relation to the possible rectification of issues relating to the HDD works, the Applicant will need to consider the resolution, noting that if these issues remain and are not addressed or resolved by the end of the Examination, then they may become a Red risk. The Applicant must, therefore, satisfy themselves that the exemption is Applicable. Since the Examination is at Deadline 5, the MMO wants to make it clear to the ExA that the MMO will not be requesting a DML to be added.</p>	<p><i>(n) tunnelling, boring, piling and drilling works and management of arisings</i></p> <p>As stated previously, the Applicant intends to rely on an exemption for these works, and is confident the relevant conditions of this exemption will be met.</p> <p>The Applicant's understanding is as per the Environment Agency's Deadline 3 submission [REP3-010], the EAs preference is for a narrower corridor to enable flood risk to be more carefully managed. The Applicant has set out its position in the Pipeline Order Width Note as to why flexibility is needed at this stage, so has not chosen a specific narrower route. This will be worked up in detailed design, with impacts to the flood defences considered as part of the EA’s Protective Provisions.</p> <p>The Applicant welcomes this clarity from the MMO. The Applicant remains confident an exemption can be relied upon and the relevant conditions of this can be met.</p>
Natural England	REP5-065	<p>Response to SWQ 2.3.6 (relating to NE9):</p> <p>1) Natural England welcomes the proposed mitigation measures in Table 7-1; however, we note that in addition to using generic methods of dust suppression, Non-Road Mobile Machinery is to be located 'where possible' 'away from sensitive boundaries or receptors'. We advise that priority is placed on these assets to be located away from sensitive boundaries and ecological receptors to reduce air quality impacts on designated sites. Furthermore, our concern with the generic measures on dust suppression in the framework CEMP (e.g. Table 7.1 in the CEMP) is that there is no means of ensuring they actually prevent impacts of dust on adjacent habitats. For example, the applicant advises that sand and aggregates should be stored in bunded areas, but if there is evidence they are escaping/ blowing/ being entrained from the bunded areas there is no commitment to ensure this is prevented/ solved. Similarly, there is commitment to water suppression and “regular cleaning” to control mud and dust – but no guidance provided on what to do if this is not sufficient in preventing impacts, or, for example, what level of cleaning is sufficient. Phrases such as “where practicable/</p>	<p>The Applicant considers this matter to be closed following the Applicant’s response provided at Deadline 3 [see REP3-006]. This was considered acceptable and listed as a ‘Matter Agreed’ in Natural England’s Deadline 4 submission [see REP4-028].</p> <p>For clarity, in Chapter 8: Air Quality [APP-060] the potential impact of construction dust on ecological receptors has been assessed as a result of the construction of the Proposed Development, and was deemed to be Not Significant following the implementation of measures detailed within the CEMP.</p> <p>The Framework CEMP contains measures to reduce construction dust, taken from the ‘high risk’ site schedule in IAQM guidance, which will form the basis of the EPC Contractor(s) Final CEMP(s).</p> <p>Notwithstanding this, a commitment was previously added into the Framework CEMP (Table 8-1) [REP5-013] which ensures Natural England are consulted on</p>

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		<p>possible” also do not give ultimate weight to avoiding the impact. This is why we would require monitoring and a method in place to prevent impacts where they are observed – including a trigger for temporary cessation of work in as much of the site area as necessary, for as long as is needed.</p> <p>2) Natural England notes the Applicant's assessment regarding the sensitivity of ecosystems. We do not agree that ecosystems are less sensitive than humans to dust emissions – particularly where the ecosystem receptors are immediately adjacent to the site boundary as in this case. The mechanism of damage is of course different, but it can still adversely affect the growth, photosynthesis and biochemistry of vegetation and any animal/ bird features that rely on this. Measures to prevent PM2.5 emissions reaching human receptors at a greater distance will indeed help to prevent dust impacts to the ecosystems, but it cannot be assumed they will be sufficient to entirely avoid them. However, subject to appropriate monitoring and a sufficiently robust management process in place we would accept this issue can be closed.</p> <p>3) It is unclear how the measures outlined in section 9 will ensure vegetation protection. How will monitoring be carried out and how frequently? What will the process be if dust is encroaching onto the protected areas? Will there be dust monitors in place to record dust outside the site boundary, or will monitoring be based on visual inspection – in which case how will an “acceptable” level of “dust-free” be recorded, or that the receptors are not adversely affected? Therefore, as there are no proposals for monitoring vegetation specifically, we cannot be sure they are adequate or sufficient to ensure dust from the site will not cause harm to the ecosystems in the protected sites.</p>	<p>measures to avoid adverse effects on integrity on protected sites from construction dust, prior to the finalisation of the Final CEMP(s).</p> <p>Therefore, the Applicant does not consider it necessary to amend the Framework CEMP further at this stage.</p>
		<p>Response to SWQ 2.3.7 (relating to Durham Coast SAC):</p> <p>Both H2130 (Fixed coastal dunes with herbaceous vegetation (grey dunes)) and H1230 (Vegetated sea cliffs of the Atlantic and Baltic Coasts) are present at Durham Coast SAC. However, only the latter is a qualifying feature. Grey dunes are a feature present within the SAC boundary – and therefore listed on the JNCC spreadsheet which is the spreadsheet used to identify the features.</p> <p>APIS at present, however, does not distinguish between the qualifying features (Grade A, B and C in the spreadsheet) and the non-qualifying (Grade D) features that are not a reason for SAC selection at a particular site. Grade D features are habitats and species listed in the Annexes to the Directives, but are not designated features for the SAC, and no legal protection is afforded to them. Therefore, they would not require to be considered in the HRA. However, they are an important component of the ecosystem and underpinning SSSI (as indicated by the habitat types listed in the SSSI in APIS) so weight should be given to harm to them in the SSSI assessment.</p>	<p>The Applicant considers this matter to be closed following the Applicant’s response provided at Deadline 1. This was considered acceptable and was listed as a ‘green risk’ in Natural England’s Deadline 2 submission [see REP2-072] and subsequently as a ‘Matter Agreed’ in Natural England’s Deadline 4 submission [see REP4-028].</p>

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		<p>Response to SWQ 2.4.2 (relating to NE2-NE8):</p> <p>At present, it is our opinion that there is inadequate information to fully assess the impacts of the development on SPA bird populations, determine whether the proposed mitigation is sufficient and to inform the Habitats Regulations Assessment.</p> <p>Natural England is engaging with the Applicant to aid with their assessment of impacts on SPA birds during the construction and operational phases of the development. Overall, we are still awaiting information from the Applicant on noise and visual disturbance and loss of functionally linked land. Until we have this information, we are unable to advise on whether our concerns have been addressed or if further work or mitigation is required. This is an ongoing matter and to date work is still ongoing by AECOM but to date this has consisted of:</p> <ol style="list-style-type: none"> <li>1. Production of a methodology to assess bird disturbance during the construction phase of the development – Natural England have advised the applicant on this and we are awaiting final results. The output of this assessment will inform the assessment of how SPA birds may be impacted across sectors during the construction phase of the works, and what the significance of this may be in relation to the SPA bird populations.</li> <li>2. Detailed information on timings of works across sectors – the Applicant has provided Natural England with more detailed phasing of works across sectors, which is welcomed.</li> <li>3. Information regarding noise and visual disturbance – Natural England is awaiting noise modelling of LAmix noise levels from the construction phase of the development, in addition to a technical note of noise and bird disturbance. Once we have this, we will be able to advise on whether this modelling is adequate to inform noise impacts on birds, and whether the proposed phasing of works and mitigation is sufficient.</li> <li>4. We are still awaiting quantification of losses of functionally linked land – both temporary and permanent, to inform the assessment of impact of losses of functionally linked land on SPA birds, in addition to information on how soon temporary lost functionally linked land will be restored and available for birds.</li> </ol> <p>Response to SWQ 2.4.7 (relating to NE28 and NE29):</p> <p>Comments at NE28 and NE29 were specifically relating to the underpinning SSSI, which is protected for the habitats as well as the bird features. However, the consideration in the HRA cannot consider impacts on the qualifying birds without consideration of impacts on their habitat – and comments made are therefore</p>	<p>The Applicant is preparing an annex to the HRA which assesses the potential impacts upon the Teesmouth and Cleveland Coast SPA and Ramsar assemblage as a result of works taking place in multiple locations simultaneously, including accounting for LAmix. On-going work on this annex confirms that with mitigation applied, there will be no adverse effects on site integrity (NE2, NE5, NE6, NE7). This will be submitted into Examination at Deadline 6A.</p> <p>The extent of functionally linked land to be lost (NE3) was quantified and submitted as part of the Applicant's D5 submissions (refer to paragraphs 4.2.6 and 4.2.7 of the Report to Inform HRA [REP5-001]).</p> <p>For completeness, it should also be noted that a technical note addressing concerns on Sightlines from Blast Furnace Pool (NE8) was quantified and submitted as part of the Applicant's responses at D5 [REP5-051].</p> <p>In addition, NE4 has previously been agreed with Natural England [see REP4-028].</p> <p>The Applicant concurs that the air quality assessment of impacts on the Teesmouth &amp; Cleveland Coast SPA/Ramsar and that on Teesmouth &amp; Cleveland Coast SSSI should be separate due to the different interest features and sensitivities. A separate assessment of air quality impacts on the SSSI was undertaken and reported in the Ecology ES chapter in the change report in October 2024 [CR1-044 + CR1-045], and cumulative aspects considered in the</p>

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		<p>relevant – though also considered at our responses to the equivalent questions for the European designations (NE10 and NE11).</p> <p>However, it may be that changes to the designated features of the SSSI could result in harm to the habitat features without adversely affecting the integrity of the SPA/ Ramsar. This could occur if the area of habitat affected is not used/ never would be used by the qualifying birds, or any pollution-induced changes would not affect how the birds used it. The EIA would therefore require a separate assessment to that in the HRA.</p>	<p>updated cumulative documentation submitted at Deadline 5 [REP5-015, REP5-019 – REP5-021, REP5-024 – REP5-034].</p>
		<p>Response to Q 2.4.9 (HDD):</p> <p>At this time Natural England have no comment to make regarding a specific distance that pipe-stringing should be undertaken with regards proximity to the SSSI/SPA. It is our advice that the pipe-stringing activity should be considered as part of the HDD works (Natural England representations NE5 to NE7) and expect any associated impacts to be appropriately assessed and mitigated for.</p>	<p>The Applicant can confirm that noise and visual disturbance as a result of pipe stringing activities has been assessed within the Report to Inform HRA [REP5-011]. Mitigation has been applied in the form of noise and visual screening to minimise disturbance effects.</p>

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## **APPENDIX 1: CONFIRMATION EMAIL FOR THE ENVIRONMENTAL PERMIT APPLICATION**





separately about our decision on that. We are currently waiting for additional information from you on your confidentiality claim.

If you have any questions in the meantime, please phone me.

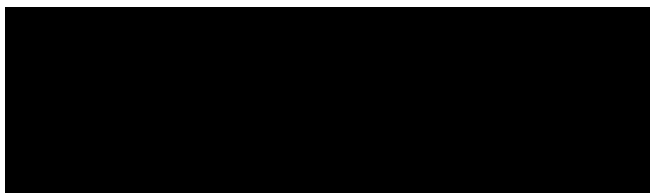
Yours sincerely,

**Francesco Di Stefano** CEng MIChemE  
Principal Permitting Officer, Installations, National Permitting Service  
**Environment Agency** | Horizon House, Deanery Road, Bristol, BS1 5AH

Next annual leave plans: 24/12/2024 to 06/01/2025

Pronouns: He/Him/His ([Why is it here?](#))

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