

H2Teesside DCO Examination

South Tees Group (20049389) – Deadline 6 Submissions

STG has reviewed the Applicant's responses to the Examining Authority's Second Written Questions and has set out its comments in this document. This document also reflects the submissions made at CAH2. As per the Examination Timetable [[PD-017](#)], any further comments on Deadline 5 submissions will be submitted at Deadline 7.

1 Applicant's response to ExQ2.1 General and Cross Topic [[REP5-039](#)]

1.1 STG notes the Applicant's response to ExQ2.1.7 (iv) on the connection between Hygreen Teesside and Phase 2. The Applicant confirms that Phase 2 can be accommodated within the Order Limits even if the Hygreen Teesside project goes ahead. The Applicant sets out this alternative location in response to ExQ2.1.9. This raises serious questions about the need for compulsory acquisition powers over the land currently designated for Phase 2 as a reasonable alternative clearly exists. If the Applicant is content that it could still develop Phase 2 without the Hygreen land, then the Applicant does not require compulsory acquisition powers over this land. It follows that the relevant compulsory acquisition tests are not met in relation to the land which overlaps with Hygreen and it should not be included in the Order Limits.

1.2 For the reasons set out in full by STG at CAH1 [[REP4-056](#)], STG's current position is that it objects to the inclusion of the entire area of land identified for Phase 2 of the development (i.e. more broadly than the Hygreen overlap area). Accordingly, STG respectfully requests that the Examining Authority recommends to the Secretary of State the removal of this land from the Order Limits. STG continues to explore a resolution to that objection with the Applicant and will update the Examining Authority if such a resolution is reached.

1.3 Applicant's response to ExQ2.6 Compulsory Acquisition and Temporary Possession [[REP5-044](#)]

1.4 The principle of flexibility in DCO promotions is acknowledged but it needs to be reasonably minimised and adequately justified. STG has accordingly been seeking site-specific justification through its submissions but has been frustrated that has not been forthcoming in the Order Width Limit Explanatory Note [[REP2-037](#)].

1.5 STG notes the Applicant's response to ExQ2.6.15 on how the final Proposed Development design may result in reduced land take. The Applicant's response fails to account for the serious effects of widespread compulsory acquisition powers over extensive areas of STG's estate. Land subject to compulsory acquisition powers will be blighted by the shadow of such powers and risks effectively being sterilised from development until the expiry of the Applicant's powers. There is no control within the draft DCO to release such powers early, even if the Applicant elects not exercise them.

1.6 Section 122 of the Planning Act 2008 makes clear that land can only be subject to compulsory acquisition powers where it is "required to facilitate or is incidental" to the proposed development. This condition is intended to ensure that the exercise of compulsory powers is

proportionate. In STG's view, the Applicant has not satisfied this condition as its extent of land acquisition is disproportionate. It remains unclear to STG why the Applicant could not wait for its detailed design to be more progressed before applying for compulsory acquisition powers. This would provide the Applicant and landowners with more certainty and reduce the risk of land being sterilised unnecessarily.

- 1.7 STG was disappointed to note the Applicant's response to ExQ2.6.21. The Applicant has failed to provide an explanation for each individual area within the Order Width Limit Explanatory Note [REP2-037] to avoid the document "being very long". This is unacceptable to STG given the serious impacts of the proposals on its land. If the Applicant has detail on why each area is as wide as it is, then this should be provided to assist affected landowners and the Examining Authority.
- 1.8 STG welcomes the prospective amendment to the Order Limits to reduce the easement corridor which conflicts with the NatPower project. Otherwise, resolution of STG's concerns more generally about the width of service corridors will require robust protective provisions in favour of STG, so that the DCO's impact can be managed effectively. This is important not only for STG, but also for prospective tenants who are looking to invest in the site.
- 1.9 To the extent the Applicant does not agree to STG's preferred form of protective provisions, STG will be inviting the Examining Authority to recommend them to the Secretary of State for the reasons outlined above.