



Hearing Transcript

Project:	H2 Teesside
Hearing:	Recording of Issue Specific Hearing 4 (ISH4)
Date:	15 January 2025

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TRANSCRIPT_H2TEESIDE_ISH4_SESSION1 _15012025

00:05

Good morning. Time is now 940 and I'm resuming this issue specific hearing for into the draft development consent order. I'm going to take it from the top again, because the digital recording didn't commence when we expected it to. So I'd like to welcome everybody to this issue specific hearing in relation to the application made by h 2t side limited for the proposed h 2t side project. At today's issue specific hearing examining authority will be looking at the applicant's draft development consent order and allowing any additional interested party or any additional affected person as a result of the applicant's accepted change request to make an oral representation on the matters previously discussed at issue. Specific hearing two which also covered the draft development consent order before we formally open this issue, specific hearing and the examining authority introduces itself, I would ask that the planning inspectorates case team for this project to confirm that you can hear me and the meeting recording and the live streaming of this event has started. Yes, I can hear you and the recording on a live stream has started. Thank you very much. Can I ask that all audible notifications for electronic devices, including mobile phones, be switched off or at least switched to silent. Please. I would also ask you keep your cameras switched off and your microphones are switched to mute unless you are actually speaking. This helps to reduce background noise and assists with broadband width. Additionally, I would advise that no special requests have been made for any special measures or arrangements to enable participation in this hearing today, but I would just like to confirm that is correct. I'm getting no indication, so I'm going to move on. Thank you. Having result resolved these primary matters and having confirmation that the live streaming and the digital recording has commenced, I would advise you that this is issue specific hearing into the applicants, drafter and consent order related to the h 2t side, nationalist, nationally significant infrastructure project is now open. Moving on to introductions, I will make these as brief as possible, but for those of you who haven't previously attended a hearing for this project, I'm Christopher Butler, and I am a chartered member of the royal Town Planning Institute, and have academic qualifications in Town and Country Planning. I am the lead panel member for this application. Along with me my colleagues Matthew Sims and Sharon Bennett Matthews, we are appoint. We were appointed on the 22nd of May 2024, under Section 65 of the Planning Act. 2020, 2008 and under delegation from the sector of state, and we constitute the examining authority for this application. We will be reporting to the Secretary of State for energy security net zero with a recommendation as to whether the development consent order should be made. I will ask my colleagues to briefly introduce themselves. Mr. Simms, please first

03:02

Good morning. I'm Matthew Sims, and I'm a chartered civil engineer and a member of the Institution of Civil Engineers.

03:10

Thank you. Mr. Sims Bennett Matthews, thank you. Sorry. Good morning. I am Sharon Bennett Matthews, I am a planning solicitor. After today's hearing, I will be supporting my fellow panel members, members. Thank you. We have all made declarations of interest responding to the planning inspectorates conflict of interest policy, and can confirm that we have no declarable interest in this relation to in relation to this appointment. Also present today are members of the planning spectrums case team working with Mr. Mr. Sims, and Miss Bennet Matthews and I on this nationally significant infrastructure project, assisting us. We have Lily Robbins, the planning inspectorates case manager for this national infrastructure project. She's leading the planning spectrums case team today. Additionally, we have ramule Burney, who is also part of the planning spectra case team, working on this national infrastructure project. Technicians from production 78 are also in attendance virtually today, solely for the purpose of managing the audio and visual services, including the recording and the live streaming of this meeting. I would also add that other colleagues from the planning spectrum may join this issue specific hearing as observers, only as part of the planning inspectorates commitment to continuing professional development. If you have any questions or concerns about today's event, please contact a member of the case team. That's the team our end. And I'm going to move on to introductions from attendees. Firstly, I want to acknowledge and welcome all that though, all of those who attended in this event today, including including those that may be watching the live streaming Welcome and thank you for joining us. Start with introductions from attendees. Want to read out the name of the team, please. Could the member of the team present virtually introduce themselves? We'd like to take those names now, if you're representing, if you're a representative, please state who you're representing. Could you also. Revise how you wish to be addressed and which on which items you wish to speak, please. So can we start with the applicant? Please, Good

05:10

morning, sir. My name is Harry wood. Philpott Casey. I appear together with Miss Isabella to fur of Council. We're instructed by Prince of masons on behalf of the applicant. H 2t, side limited. I will be doing most of the speaking on behalf of the applicant today, but I will also be calling on Mr. Ross Nixon, the environmental and social manager at BP, to speak at appropriate points in the agenda he's already familiar to the examination. So unless you particularly want to, I wasn't proposing to get him to come on screen at this stage.

05:46

No, that's fine. We're familiar with Mr. Nixon, and if he introduces himself when he first speaks, that would be great. Thank you. In that case, I'm going to move on to local authorities. Do we have anybody here from red car and Cleveland Borough Council, please

06:03

Morning, sir. Adrian Miller, head of Planning and Development at red car and Cleveland Borough Council. We have no specific representations to make today, but we are here to assist the examining authority with any issues that might arise. Okay,

06:18

that's perfect. Mr. Miller, thank you for your attendance. Can we have Stockton on teesboro Council please?

06:30

Morning. My name is Elaine Atkinson. I'm a principal Planning Officer for Stockton Borough Council. I don't intend to speak unless required, and just here to observe. Thank you. Okay,

06:40

thank you. Mrs. Atkinson, can we move on to South tees group? Please,

06:51

morning, sir. My name is Tom Henderson, partner at Broadfield, LLP, representing South tees group. Okay,

06:58

thank you, Mr. Henderson, can we have introductions from Anglo American? Please?

07:07

Good morning. James Cox of Litchfield actually on behalf of Anglo American and wishing to speak in relation to items three and four.

07:17

Okay. Thanks very much. And then can we move on to evershed Sutherland? I believe you're speaking on behalf of navigator terminals, limited, PD, T support, limited, central utilities, UK Limited, INEOS, night trials UK Limited, and CF fertilizers limited. If you could introduce yourself, please,

07:42

good morning. My name is Peter Nesbitt. I'm a partner at evershed Sutherland, representing the parties you just listed, sir,

07:49

yeah, and that they're all correct, and there's no additional ones I need to add on to that. Is there all correct? Sir? Thank you. Thank you. Thank you, Mr. Nesbitt. And then can we have Shepard Wedderburn? LLP, limited, on behalf of MP, MPs, entities, NSP, entities, sorry, apologies. I got that role.

08:12

Not at all, sir. Good morning. My name is Colin in this I'm a partner with Shepherd Wedderburn and represent northern gas processing limited, Teesside gas and liquids processing and Teesside gas processing plant limited collectively known as the nsnp entities and I, we will only seek to participate to a limited degree in item three. Thank you.

08:36

Okay. Thank you very much. Um, then can I have SABIC UK petro chemicals limited, please? I believe that's one more bond Dickinson,

08:53

yes. Good morning, sir. My name is Stephen dagmal. Even director with one more bond Dickinson, UK, LLP, I'm representing the three cyber companies today. I am joined by members of the legal and operations team this morning, but I would just propose I introduce them, if anyone they require to speak.

09:11

No, that's fine. Thank you very much. Mr. Dag. And then I have the mission to seafarers, please. I believe we have somebody from the mission to seafarers. Yeah, hi. Good morning, sir. My name is Nick craigo. I'm hearing not to speak. Just listen and follow with interest. Okay, thank you, Mr. Craigo. I don't have anybody else registered to speak. So are there any other interested point, parties joining us who have registered speak, who would wish to speak at this hearing? If so, can you raise your hands now and switch your cameras on so we can make a note of that. Please, getting no indication, as we've not missed anybody else. And. Um, turning to the specifics of the event,

10:10

what I would say is most people here today have already been at hearings this week or previously, and I've read through all of the instructions before, and I was just wondering whether or not you want me to read through them again, bearing in mind you've all heard them verbatim, and they take about 15 minutes to go through. I'm happy to do that, but what I would propose to do is to just read out the parts that I'm required to read out, which is the purpose of the actual physical purpose of the hearing today, and just to give you the headlines of the rest of it and see if we can cut some time down. Does anybody object to that? I'm getting no indication. So I'm just going to whiz through the headings anybody that is following this hearing today. The agenda can be found at Annex E to our rule eight, three, letter and 13, letter dated the ninth of december 2024 which is available in the examination library on the project page of our national infrastructure website under reference, PD, 017, if for any medical or other reasons, anybody requires a break at a specific time, could you please let the case team know, and we'll hopefully just adjust the program to meet your needs. In terms of timings, we'll look to take a short break of 15 minutes at 11 o'clock, and we'll aim to finish around 1230 but we'll keep this under review, and once the business of today has been concluded, the hearing will close, so we may close earlier than 1230 just in terms of if you leave the meeting, rejoin using the same link as you were provided with previously. If you're watching the live stream, then you'll need to refresh your browser. Please don't use the chat function, as it's not being monitored. If at any point you can't hear me or my fellow panel members, please switch your camera on or raise your hands and let us know, I would remind you all that the information you provide today is being recorded and is subject to the general data protection regulations, and it will be published. And again, we've run through this several times this week and previously. Please bear in mind that the digital recording is the only official recording of these proceedings, and it will be placed on the national infrastructure, website, tweets, blogs and other similar communications arising out of this meeting will not be accepted as evidence into the examination the point about the substantive issue about today's hearing itself, it concerns the draft development consent order and allows an opportunity for any additional interested parties or any additional affected persons as a result of the applicant's change request submitted by the applicant to amend the development consent order, application to make oral representations on the matters previously discussed at issues, particularly hearing two which was also into the draft development consent order.

13:38

Sorry, I'm just trying to read through and

14:06

the main issues for discussion today, we are required under Rule 14 two, to actually specify them both as we commence the hearing. So we consider the main items. Items for discussion are the change request, allowing the opportunity for an additional interested party or an additional effective person. As a result the applicant's accepted change request to submit, submitted by the applicant, to amend its development consent order, application to make oral representations or matters previously discussed at issue, specific hearing to into the draft development consent order. How the applicant. Applicants accepted change requested, resulting in alterations to the articles and schedules of the draft DCO. Schedule two requirements of the draft DCO, and article 44 of the draft and consequently, schedule 14 of the draft DCO, certification of plans, whether the plans and. Documents listed in the draft DCO represent a complete list of the search to be certified and updates and clarifications in regard to consent licensing, licenses and other agreements you

15:20

it's important we get the right answer questions that we're going to ask. Reiterate that this is predominantly written protest. Therefore, if you cannot answer the question that you are being asked or require time to get information requested, then rather than giving us a restricted or potentially incorrect answer, can you please indicate that you need to respond in writing. We can then defer the response to either an action point or to the next round of written questions. Or, sorry, there's no further rounds of written questions, but or a later point in time if, if possible, within the times squares remain, remaining with the examination period. Do?

16:07

The assumption is that post hearing actions will be expected by the next deadline, which is deadline six A which is Wednesday 22nd of January 2025 however, if you feel you need more time, then raise it at the time when we make the action point, please. And we'll see what we can do to accommodate that. Finally, for the purpose of identification and for the benefit of those who may be listening to the digital recording. Later, could we ask that at every point in time when you speak, could you please give your name, and if you were representing an organization or an individual who is who it is you are representing, please ensure you speak loudly and clearly we're making your submissions. Does anybody have any questions about the Proceed agenda? The proceed process through the hearing you've heard today? Please get no indication. So I'm going to move on to Agenda Item, the next agenda item, which is the change request as relevant to issue specific hearing. Two, in accordance with regulation, 14. Two of the infrastructure planning, compulsory acquisition regulations, 2010 the examining authority is now now gives an opportunity to any additional interested parties or any additional affected persons as a result of the accepted change request submitted by the applicant into the amended development consent order, application to make oral representations on the matters that were previously discussed at issue, specific hearing two into the draft development consent order. Are there any additional interested parties or additional affected persons present who wish to make oral representations on this matter, please. I'm getting no indication. There's no raised hands, so I'm going

to move on. So we're going on to the next agenda item, which is item three articles and schedules in the draft development consent order. For clarity, we are using the most up to date version of the draft development consent order, which was submitted at deadline five and it's under our reference in the examination library of R, E, p5, 006, as you will have already seen, the examining authority asked a significant number of questions in both the first and second round of written questions in relation to the draft consent order, and that document continues to evolve in response to both those written questions as well as submissions from interested parties. Thank you for the representations received to date which continue to inform the drafting of the development consent order. In response to agenda item, this agenda item, please remember schedule two requirements will be dealt with under the next agenda item. That's Agenda Item four and article 44 and consequently, schedule 14 will be dealt with under agenda item five. I'd like to start with the applicant to provide a brief overview of how the change request has resulted in alterations to the draft development consent order, please.

19:07

Thank you, sir Hollywood, Phil Park Casey, on behalf of the applicant. So the change application, draft development consent order that was submitted in October of last year was revision three of the DCO and that's CR one zero 15 for the clean version. CR one zero 16 for the track change version. In summary, the changes to the development consent order as a result of the change request involved the following. The first was the addition of work number 2c that was to reflect change number eight, which was the compulsory acquisition regulation to change. Secondly, there were amendments to sub works within schedule one to reflect various. Work removals, the addition of the second flare and also associated cross reference changes. Thirdly, there was a modification to requirement three to remove the deleted works from the scope of detailed design approval. Fourth there were changes to the land and the streets related schedules to reflect the removal and modification of works. And then fifth, finally, changes were made to the parameters schedule to reflect changes to the main site dimensions. That's change number seven, and the amendments that were made between the revision two DCO, the one submitted at deadline two and the revision three, diversions of the development consent order are also set out in the schedule of changes to the draft DCO that was submitted with the change application. And that's CR one zero 17. The applicant also submitted an updated explanatory memorandum. That's the r1 zero 18 for the clean version. CR one zero 19 for the track version, to account for the changes made to the draft DCA by the change application and how that related to the change application report, CR, one, zero, 44, so, so that's by way of an overview, unless I can assist further.

21:37

No, that's fine, and I'd, I'd picked up on most of that anyway. I just wanted to get a clearer understanding from you of the impact the change request on the draft development consent order. Does anybody else have anything to say? Or does anybody wish to respond to what they just heard Mr. Philpott say? Please.

22:05

And in that case, I'm going to move on. So a number of interested parties have after speaking regard to this item of the agenda, I thought about how best to do this based on the number of articles and schedules in the draft DCO sorry, development consent order forming to jargon, I'm afraid, and what I'm proposing to do is to ask each interested interested party who has expressed a desire, because there's

only a limited number, so any interested parties have expressed a desire to speak on this item, to make an oral submission in turn, so those that have actually indicated a wish to speak in terms of this, this item, I've got Anglo American, and then I've got and that's Litchfield. LLP, Mr. James Cox, and then I've got nsmp entities, and that's Shepherd and Wedderburn. LLP, Mr. Colin Innis. And then I've got SABIC UK petrochemicals limited and other SABIC companies. Hereafter, I'm going to refer to them all as just SABIC, if that's okay with them, or say big, unless there's an objection to that. And that's one bull bond, Dickinson, UK, LLP, Mr. DAG, although we've got South tees group represented here today and also ever shed Sutherland representing CF fertilizers, limited, ileos, night trials, limited, navigator terminals limited, PD, T sports, limited, Semco utilities limited. They haven't actually indicated that they wish to speak on this item prior to today. Can I just confirm whether, whether you want to speak on item three? So can I put that question firstly to broadfields law UK LLP, on behalf of southeast group,

24:05

thank you, sir. Tom hillison for South East group, the only issues that we have remaining relate to the requirements, which I think is your agenda item protects provisions which I assume you're not covering today in any event. So we don't have anything to say on on requirement three at this stage, we'll listen and comment us.

24:28

Okay, that's fine. I'll bring you in as when you need to speak there. Mr. Henderson, if that's okay. In terms of protected provisions, we discussed protected provisions at some detail during the glossary acquisition hearing. So we we are unlikely to cover them in any great detail here, I would guess, but we'll see how things evolve. Can I ask ever to Sutherland's whether or not they want to speak on Item three on behalf of any of your clients? Please do.

25:01

Hello. Peter Nesbit. Overshad Sutherland, no sir. Nothing specific, only if it assists you, and in response to anything that might arise during that session, but nothing specific submissions. Thank you.

25:14

Okay, so the the same as Mr. Henderson, then what I'll do is I'll offer an opportunity at each point for somebody else to make, any other interested party to make a comment, and you can come in at that stage. Okay, that's perfect. Have I missed anybody else who wishes to speak in terms of agenda item three? Okay, I'm going to move on then. So can we start with Anglo American then, please. That's Litchfield. LLP, Mr. Cox, what would you like to say with regard to the articles and schedules within the DCO

25:51

please? Thank you, sir. It's James Cox of of Litchfield, actually, on behalf of Anglo American, and our comments relate to Article 48 and also, very briefly in relation to protective provisions, that's fine in their response to Deadline five Anglo American raised concerns regarding article 48 specifically, there were concerns about the legal effectiveness of new article 48 in preventing Anglo American from being accountable for any liability arising through breach of the environmental permit by h 2t should any adverse effects be caused by activities authorized by the draft DCO, it has now been agreed in

principle between both parties That provision is to be made in a side agreement for h 2t to indemnify Anglo American in such an event. However, we have yet see the detail of this in an updated draft to this. To this end, Anglo Americans position on the article 48 matter remains unchanged from their deadline five submission. Anglo American has already provided an update to the examining authority with examining authority with regard to protective provisions as part of the oral submissions to the compulsory acquisition hearing that was held on Monday. So I'm not proposing to repeat the same points here, other than say that we await a formal response from the applicant. With regard to Anglo Americans preferred protective provisions which was submitted to them in December. However, following Monday's meeting, the applicant has made various information requests of Anglo American and a meeting is to be held with them on the 23rd of January to discuss technical matters which we understand from the applicant will inform the updated side agreement and protected provisions. We note that on Monday, various interested parties made a request for additional hearing sessions in order to provide further updates to the examining authority on any outstanding matters. We'd welcome the opportunity to report further on the side agreement of protective provisions if additional hearing sessions are to be accommodated, will otherwise rely on written representations to make our comments. Thank you.

28:01

That's understood. Mr. Cox, thank you very much. Would the applicant like to respond to to that? Please?

28:10

So briefly. Harry Woodsville thought Casey on behalf of the applicant, so I don't propose to go into what is or isn't being discussed in commercial negotiations. I understand those are ongoing in relation to matters of indemnity and so on. I'd simply make this short submission. You'll have seen the effect of Article 48 and what we've said about that in various written submissions. It's also, in this context, important to have regard to the protective provisions that have been included on the face of the DCO in favor of Anglo American at schedule 29 and when you come to look at those so this matter is not completely resolved by the end of this we'd ask you to consider, in particular, the provisions that are made under paragraph three of those protected provisions. Which deal with the issue of consent to works in the shared area, and those need to be seen and read as a whole. That in particular relevance to this issue is sub paragraph five, which explains that wherever in the schedule provision is made with respect to the agreement, approval or consent of Anglo American, it can be subject to such reasonable terms and conditions as they may require and. And that includes conditions requiring protective works, and it will be deemed reasonable for any consent to be refused if it would and then subparagraph C cause a breach of the obligations under or conditions attached to the EA permit or render compliance with the obligations under or conditions attached to the EA permit, or difficult and or more expensive, and that, that's obviously a new provision that's come in in the deadline five version, which now includes those protected provisions, but in the context of the discussion which we've been having during the examination about Article 48 and the concerns that have been raised in respect of potential breach of the EA permit, that's an important legal protection to keep in mind. Now I don't want to go into sort of more detail today, but because that is not something obviously that was in front of you at the last hearing into the DCO. I just wanted to direct particular attention to it. Now we had our opportunity to do so.

31:10

Thank you very much, Mr. Philpott, does any other interested party wish to say anything in relation to what they've heard from Anglo American or Mr. Philpott response, and that's also out to to Anglo American if they want to come back on that there's no raised hand. So just in terms of Mr. Cox's mention of a request for further hearings or noting the REST requests during compulsory acquisition hearing for further hearings, we will look at the time scale to see what that can accommodate. But it's a very fine balance and exercise in terms of the amount amount of time remaining, and also enabling all the parties enough time to spend on actually physically resolving the matters, as opposed to preparing for hearings. So we're also conscious of the fact that the the process is predominantly a written one. So we will look at that, and we will decide whether or not any further hearings are required. But it would depend on those factors effectively, whether or not we feel it's more in the applicant and the interested parties interest to try and endeavor to resolve these matters in the time remaining, and whether or not it would be more appropriate to deal with the matters in writing, as opposed to using up valuable negotiation time from those parties in requiring them to attend further hearings. So we if we decide to do that, then we'd have to issue a rule eight, three letter, and obviously you'll become aware of that at that time. If we decide not to hold any further hearings, then there's no need for us to do anything, because the existing timetable would would remain. Does anybody want to comment on any of that? No indication I'm going to move on then. Nsnp entities please, representing that's Mr. Mr. Innis of Shepherd and Wedderburn representing northern gas processing limited, teas gas and liquids processing teas, gas and processing plant limited.

33:36

Thank you, sir COVID, on behalf of the SP entities I am here really just to provide an update, and that update is largely positive. We have reached agreement with the applicant in relation to protective provisions that were submitted at deadline five and included in rep five, double 06 schedule 37 those represent detailed discussions between the applicants and NS MP entities, and effectively, at this stage of the process, our position is that those are agreed, and therefore, really The only outstanding matter is that if you, as an examining authority had any questions arising from those protected provisions, as they have been carefully formulated to deal very specifically with the issues in relation to this development's relationship with the interests that I represent in respect of other outstanding matters, those are extremely limited in number, and it is anticipated that we will be able to resolve those shortly after this hearing. They relate to a number of outstanding matters about drafting in requirements. They are relatively narrow in nature. Pressure and relate to consultation. And as I say, We're anticipating that those will be resolved in short order, and that we will be able to reach a total agreement with the applicant fairly quickly after this hearing.

35:14

Okay, just Can I take some clarification from you? I um,

35:25

the outstanding matters relating to drafting and requirements, is that drafting of the development consent order, and is that reference to requirements within schedule two of the development consent order, or is that drafting and requirements related to other side agreements? No,

35:42

it's relating to requirements within the DCO that we're looking on the face of but they are restricted in nature looking for consultation. There's no, there's nothing, which I would describe, of substance that would alter in any way the character of the requirements that are currently being proposed.

36:01

Okay, that's that's understood. Is there any side agreement that you're seeking to be entered into, or is it just purely the protective provisions you're you're reliant on?

36:14

We may enter into a side agreement with the applicant merely covering off the detail of what we've agreed but we're relying largely on the protective provisions,

36:27

and in that case, at what point would you anticipate the removal of your objection to the proposed development? Please.

36:38

Comments on behalf of the nsnp entities. We're ready to deal with this very quickly. And the as I understand it, the from discussions with the applicants, they are too. So we're anticipating this to be undertaken in very short order, and we'd be in a position to resolve matters quickly. Okay,

36:58

obviously, the sooner that that can be done, the better, from our point of view, because there's only six weeks in the examination roughly left. But I'll leave it in the hands of the two parties that are obviously dealing with it. But if you could confirm, once you're in a position to do so, your removal of the objection that you've got as a holding objection, we'd be grateful, on the assumption that that everything is resolved. Obviously. Thank you very much. Mr. Innes, can I go back to the applicant please for a response?

37:40

Thank you, sir. Harry wood Philpot, on behalf of the applicant, so not much response needed. Obviously, that's a encouraging and positive summary that you've just heard there reflects my own understanding of where we are. My understanding is that those remaining points in relation to the requirements are fairly characterized as very minor, that matters such as whether they should be added as consultee to various requirements, matters of that sort, as opposed to anything fundamental. So unless you need anything further from us, I didn't have any additional response to provide at this stage.

38:16

No, I'm going to open it up to any other IP or interested party, to comment on what they've just heard. I'm getting no indication. So in that case, I'm going to move move on. And that's SABIC is the next one we've got. So represented by Mr. Dag of one with one Dickinson, please.

38:44

Thank you, sir. The pronunciation, as I understand it, is SABIC. So hope, hopefully that will, that will assist you. That's perfect. Yes, my, my intention today was really to take a watch and brief and just to be here to respond in the event that the that the applicant said something that we needed to respond on. So I'll, I will only address you very briefly. You will have heard our concerns in the last hearing and in written representations as well. Again, I won't, I won't, I won't repeat those safe to say that we are still concerned about Article 47 and and funding in relation to it. It was, it was something that we considered under requirements, I think, in the last, in the last hearing, and the use of trenchless technology. So we Savic very much welcomes the amendment to the semp, which provides for the use of mandated, mandatory trenchless technology, in particular in relation to the. The teas, but given the importance of the river to its operations, it would want to ensure that the Port Authority is content that it has sufficient powers in the context of the disapplication of various of its various powers in relation to the its statutory functions in relation to the port, so either from from subjects perspective, it it uses the river to import feedstock for its operations. It notes the disapplication of the ports powers subject would want the would want PD ports to be satisfied that either that it had sufficient powers, either through the powers available to it under the acts and and various orders that it operates or through protective provisions. Okay,

41:03

thank you. That's understood. Do you have anything else you want to add?

41:09

No, sir, that was it for me. Thank you. Hi. Thank

41:11

you very much. Mr. Day. In that case, I'm going to ask Mr. Nesbit, saying he's representing PDT support, whether or not he wishes to say anything in response to what Mr. Dag has just said in terms of PDT support being satisfied with regard to its statutory powers.

41:34

Thank you, sir. Peter Nesbit, on behalf of PDT support limited I wasn't going to make any specific submissions on this, because I've already made them at the previous Yes, understood hearings that that, just to update you, that position hasn't changed, we still would request that the disapplication provisions are removed, and that PDT sports powers in relation to licensing in the river are retained. However, we are having a number of discussions with the applicant about how best to manage those powers, and it may have been noted that in our draft set of protective provisions, there's a there's a drafting hold note to say that's still under discussion with the applicant. We are making some progress. There has been a number of meetings between the applicant and PDT support to explore and understand the nature of the process that leads to that license. And you will appreciate that, that there's a concern from the applicants perspective, to understand what's involved, how long that takes and to and to appreciate those elements, my client has provided an example of a license so that can be understood. There are some residual questions about process that we're seeking to answer. And it may be that some of these matters can be tidied up in protected provisions, but we're not quite at that stage yet, and we haven't seen the drafting around that. So that's where we are at the moment. There has

been some progress. There is a further technical meeting, which I mentioned earlier in the week, to happen, I believe tomorrow, in relation to the interface, if you recall, between the proposed development or the potential interface, I should say, between the proposed development and the ports, Proposed container port development, which is, which is also linked to the licensing powers. And I think that's all I can say. At the moment, it is hoped that we can find a solution to this via protective provisions, and the precise details of that we we will have to update you on in due course. Hopefully that's helpful. No,

44:00

it is very helpful actual fact. And it's, it sounds more optimistic than the position I was actually anticipating you talking about. So I'm, I'm quite pleased I asked you about it, to be quite frank, obviously, in terms of progress on these negotiations again, sort of banging the drum again. And this isn't directed directly at you. It's directed at the applicant and everybody involved in negotiations on these, these, these, these topics. But there is a limited amount of time remaining, so the pressure needs to be kept on to keep them and get them resolved effectively, if at all possible. So thank you very much. Thank you, Mr. Nesbit. I'm going to ask, does any other interested party? Before I bring the applicant back, does any interested party we should say anything on what they've heard. So coming in that case, I get no indication. Coming back to. The applicant, please. Would you like to respond? Mr. Philpott, yes.

45:06

Harry wood Philpot on behalf of the applicant. So I think what I need to say at this stage is you've heard from Mr. Nesbit that there are negotiations going on between his clients and mine, and the progress is being made. And what you've heard reflect my own instructions about the positive approach and levels of optimism involved by those involved in the negotiations. And whilst we, of course, are very much alive to the point you made this week, and it's been explained before about the risks to both sides of those involved in such negotiations, if agreement is not reached before the end of the examination. On this one, we are cautiously optimistic.

45:55

Good. Thank you very much. Does anybody else wish to say anything in relation to sabics or PDT sports comments, please, no indication I'm going to ask Mr. Henderson if he wishes to say anything at this point.

46:17

Thank you. Said sorry. I briefly lost conviction, but I've got one comment on requirement 33 but

46:24

we've not got there yet. No, we haven't. So we're still on we're still on Item three, so we're still doing schedules and articles and schedules, but we haven't got to Item four yet, which is which we're going to come on to shortly. So did you have anything on Item three that you wish to add no

46:43

nothing further on. Item three, perfect. All right.

46:44

Thank you very much. In that case, have I missed anybody? Is there anybody else that wishes to speak on agenda item three? Please. No indication. I

47:05

I had done a short piece in the script about remaining time to negotiate protective provisions and side agreements, etc and so on. But I think I've labored the point already and made enough comment about that, so I'm going to move on.

47:27

So we're going to move on to Agenda Item four, please, which is schedule two of the draft development consent order. Again, as you will have seen, the examining authority has already asked a significant number of questions in both the first and second round of written questions in relation to the this this matter and the document continues to evolve, as I previously stated, in response to both those questions as well as the submissions of interested parties.

48:00

I would just like to say, in terms of discussions on the requirements in schedule two, I'd like to focus primarily on the wording rather than any content. I propose, not proposing to talk about the specifics of an issue, but rather looking at how the requirement works and how the wording fits together, whether it's would secure any of the mitigations or manage the works as in the necessary ways. That's that's what we're primarily looking at. If we don't cover a specific requirement. This isn't because we don't consider all matters have been we isn't considered. It's not because we consider that all matters have been resolved. It's just related to the that requirement. It's just that we view that we probably have enough information to form a view.

48:55

Moving on to the question set out in the agenda, can the applicant provide an overview as to how the change request has affected the requirements. Please,

49:08

would Philpot Casey, on behalf of the applicant, can deal with this very briefly, so the only change to the requirements made as a result of the change application is to remove reference to work number six, a, three and six, b3, from requirement three, sub paragraph seven and sub paragraph eight, dealing with detailed design. And that is because those work numbers have been removed from schedule one of the order as a result of change number 2f and the change application report explains that CR, one, zero, 44, and that change was the removal of the Northern gas networks, AGI above ground installation off the a 178, Seaton Carew Road, no other amendment. To be made to the requirements of the draft DCO as a result of the change application.

50:06

Thank you very much. Mr. Philpot fish, for my note, I don't want to ask any specific questions about that, because I'd already noted that, but I wanted that to be set out for any interested parties present

today, so there's just a clear understanding what any implications were with guarding requirements and the change request. Moving on to interested parties, a number have again indicated a wish to speak in regard to this item, and I'm proposing to deal with it in exactly the same way as the preceding agenda item, by asking each interested party, sorry excuse me, the same expression that expressed a desire to speak on this item, to make their oral submissions. As such, I have, again, Anglo American, and then I have possibly nsnp entities, because they they'd indicated that they wanted to speak on schedules, and the requirements are in schedule two. So I will invite them if they wish to. And then SABIC, UK petrochemicals limited. So, so SABIC and then again, South T's group have indicated a wish to say something with regard to requirements. So what are sorry? Excuse me.

51:36

Apologies for that.

51:37

What I'd do

51:38

is I'll ask if I've missed anybody off of that list that wishes to speak with regard to requirements,

51:53

getting no indication. So I'm going to move on in that case. Can I ask Anglo American? So Mr. Mr. Cox from Lichfield LLP to speak on behalf of Anglo American regarding requirements, please.

52:06

Thank you, sir. James Cox of litchfields, just briefly in relation to requirements. Anglo American has previously provided comments in relation to requirements 1822, 25 and 28 it is understood that in all cases, the applicant is looking to address Anglo Americans comments through updated protected provisions and or a side agreement. In the absence of these, Anglo American has no further comments on the draft requirements at this stage, but will look to provide further submissions to the examining authority on receipt of updated drafts as part of previous representations. Anglo American also requested that an additional requirement concerning the management requiring concerning the management of operational noise welcome, the application submission of draft wording for this requirement, which Anglo American has reviewed and believes should be included within the draft DCO. This is on the basis of the limited design development at this stage, and the requirement is therefore considered appropriate in providing greater certainty regarding predicted noise levels as well as the mechanisms for managing and monitoring them. Thank you.

53:24

Yes. Had noted that Mr. Cox in your last submission, in actual fact and your commentary with regard to the additional requirement on operational noise, but thank you for your your confirmation of that. Did any other interested parties to say anything with regard to what they've just heard Mr. Cox say, getting no indication. So I'm going to ask the applicant whether they wish to respond.

53:53

Thank you, sir. Harry wood, Phil but on behalf of the applicant, not much to respond to. Obviously, Mr. Cox has given an overview of where we currently are. I don't need to respond to that. So far as the operational noise requirement is concerned, you've got the parties positions, including my clients, as to whether it's needed. But you also have now drafting, if you take the view that you prefer what Anglo American are saying. Understood.

54:21

Thank you very much. I'm going to, in that case, move on to ask whether Mr. Innes of Shepard and Wedderburn. LLP, on behalf of nsnp entities, wishes to say anything specific with regard to requirements please.

54:39

Colin Innis, on behalf of the nsmp entities. No sir. Thank you. I'm happy to deal with the applicant in relation to these regulatory minor matters. Thank you, sir.

54:49

Okay, that's perfect. Thank you very much, Mr. Innes. In that case, rather than go back to the applicant, I'm going to move on to SABIC. And that's. Mr. Dag of one will bond Dickinson, would you like to say anything in relation to requirements? Please?

55:06

Steven dag from representing sabec, so I don't have any specific any further specific representations to make today. I didn't want to interrupt your flow before, but I will stay just to see if there are any other items on which I need to assist you. I do need to to come back on something that where someone else has made a representation, but for the moment that that completes our representations in relation to two items, three and the other items on the agenda. Thank you. No,

55:39

that's fine, Mr. Day, but thank you very much for coming back on screen. I'm going to invite South tees group, Broadfield law, UK. LLP, please, Mr. Henderson, you

56:08

I seem to have a problem with Mr. Henderson. So what I'll do is, we'll come back to Mr. Henderson in a second. But what I'll do is I'll ask, does anybody else wish to say anything with regards to requirements?

56:35

I'm getting no indication. What I think I might do is I'll come back to Mr. Henderson once he sorts out reconnection problems. I'm assuming he's dropped out or is having it issues. I'll come back to him shortly, but for the moment, I'm going to say we're going to move on to Agenda Item five. But with that marker that we'll come back to Mr. Henderson with regard to Agenda Item four, I

57:23

so in terms of Agenda Item five, we'd ask the applicant to explain changes in this article. We'd ask, yeah, we'd ask the applicant to explain the changes. Explains any changes to this this article as a result of the change request, and whether the plans and documents listed in the draft DCO represent a complete list to be certified. So I'm just going to note about Mr. Henderson seems to have lost connection, and we'll come back into the lobby shortly. So I'll just finish this this bit, and we'll go back to item four, then. But I would ask the applicant to explain the changes to this article as a result of the change request, and whether the plans and documents listed in the draft eco represent the complete list to be certified. To be clear, the current list of plans and documents to be certified. Consist of the access and right away plans, the application guide, the book of reference, the change application report, the change application report. Appendices, the environmental statement, which includes a non technical summary. Volumes one, volumes two, volumes three, figure, 2.15, which import, which is important, head rise to be removed. Framework, construction and environmental management plan, framework, construction traffic management plan, framework, construction workers management plan, the H 2t side, Anglo American shared acts, shared area plan, an indicative light strategy for construction and indicative light strategy for operation. Indicative surface water drainage plans, land plans, nutrient neutrality assessment, outline landscape and Biodiversity Management Plan, outline landscape waste management plan, outline water management plan, special categories, land and Crown land plans and temporary So, temporary traffic regulation, measure, measures, plan, Water Framework, directive, assessment and works plans. Can the applicant respond please?

59:29

Thank you, sir. Harry Thompson, on behalf of the applicant, so that there were no changes made to Article 44 of the draft DCO as a result of the change application, the list of documents in schedule 14 was updated in the change application DCO. That's provision two to remove reference to the design and access statement. But that change. Was not as a result of or related to the change application, but it was simply the applicant taking the opportunity to make that amendment, given that there's no other reference to the design and access statement in the development consent order, the reasons for making that change were set out fully in the response to examine the authority. First round question, 1.9 point 44 which is rec two zero, 27 and the second round question, two point 9.5 that's rep five zero 45 which explained how elements in the design and access statement are either already secured by a requirement in the development consent order, or are not defined in terms that are specific enough to be capable of being secured in requirement. And also in response to second round question, 2.9, point 10, this is rep five, zero, 45 the applicant inserted the change application report and the change application report appendices at deadline five, so those went in in a later version, but they obviously relate to the change application but so what you now have, and you've just read out in the deadline five version of the development consent order schedule 14, is a complete list. The one document that perhaps worth commenting on is the h 2t side Anglo American shared area plan that is currently in square brackets, simply because the form is not yet agreed, and that's why there's not a document reference in relation to that particular document. But that's the only point I need to comment on.

1:01:58

Thank you. Thank you for that. Does anybody want to respond to what they've heard the applicant say? Please or have anything to say in regard to the this this article and relevant schedule so 44 and schedule 14. I Okay, I'm getting no indication. So in that case, I'm going to go back to Mr. Henderson in

relation to a response to Agenda Item four, because he'd indicated he wanted to say something on behalf of South tees group, hopefully he's been able to rejoin us.

1:02:44

Thank you, sir. I have can you hear me? Okay, yes, yes, I can hear you. Fine. Thank you. Thank you. Tom Henderson, for South tees group, yes, I did want to make some submission on requirement 33 this was the requirement you'll recall, yeah, relating to the discharge of works which appear both under the net zero T side order and this DCO, yes, I should say, as a preliminary point, that, as you would expect, South T's group is supportive of net zero T side and HTT side sharing infrastructure in order to rationalize assets and reduce the impact on the estate. So it's worth underlining that at the outset, we've been reflecting on the drafting of this provision as its result, as it's evolved, sorry, and we've got four points that we wanted to raise, if this is the right forum to do so, drafting points, I should say the first and most substantive one is that, reflecting on this we we recognize it's important that any shared infrastructure is capable of accommodating both projects, and therefore where reliance is placed on an earlier discharge in relation to a net zero T side and that project's detailed design. Our query is how the operation of requirement 33 in this DCO would provide appropriate oversight that the design of the asset can accommodate both projects and not one project. So that's our first and probably our most substantive outstanding query on this, on this point. And we've then got three further points, which I guess are more minor drafting points, but I'll raise them for so you've got the complete picture. The second point is that the requirement references the term part in relation to both physical parts of the project, and as we understand it, parts of requirement, as in paragraphs of requirement. And we found that quite confusing, and would ask the applicant whether they can take that away and have a look at that point, the the. Third point is that paragraph 33, one, a talks about the relevant part of the net zero T side requirements, but we don't see that relevant parts actually defined. That to us, connotes that relevant part is a defined term, but it isn't defined. And again, we would ask the applicant to take that point away. Fourthly, and lastly, paragraph 33 1c refers to infrastructure to be consent to be constructed. Sorry, maintained and operated. As in, it hasn't yet been constructed, but it occurs to us that there's a scenario where infrastructure has been designed, has been discharged, and an IT side and it's actually been constructed. And then h 2t side seeks to use that infrastructure. So I think that sub paragraph C only refers to something that hasn't yet been built, but it seems to us it needs to accommodate both scenarios. So appreciate there's quite a lot of detail there. The applicant may want to take some of those take some of those points away. Would would be useful to hear if we could a response to the first point about the how the provision deals with the combined effect of two projects on on the use of an asset. But those were our remaining points on this requirement.

1:06:19

Did Mr. Anderson, did you have any view with regard to requirement 33, three, where it just generally refers to consultation with a third party? I mean, obviously I'm thinking about preciseness here, but and third party is clearly a reference back to third parties in other requirements, requirement 10 and requirement three. But did you have a view on that wording and whether or not it was precise enough for your purposes?

1:06:52

Well, we read that, and we're a consultee under the relevant requirements, so we'd read those. So you were comfortable that we would? Yeah, we're comfortable with that. I think probably the, as I say, the big, the biggest issue is

1:07:03

the first one you raised, the other three to take away. Yeah,

1:07:08

and I think query whether the requirement, I mean, it talks about relevant requirements being discharged, but query if it needs to be clear that the operation of this provision needs to ensure that an asset is capable of accommodating multiple projects and not one. And I think that's, you know, that's you can see a potential risk, let's say, for a wastewater pipe or a water supply pipe, it needs to be sized to accommodate multiple projects, so just to make sure that's provided for

1:07:36

Okay. Thank you very much. Before I go back to the applicant, Does anybody else want to respond to what they've heard? Mr. Henderson say, in that case, I'm going to go back to the applicant and ask the applicant whether they'd like to respond, please.

1:07:51

So yes, Harry wood, Philpott Casey, on behalf of the applicant. So if I, if I deal with the second, third and fourth points first, because I can deal with those briefly, that these are matters as I understand, that that were raised on behalf of STG in their deadline by representations those drafting points. And although I think Mr. Henderson may not be aware of it, because obviously we haven't yet responded, I think on those points, the version that will go in at deadline six A will include some changes to seek to address those points and explanation of what we think the position is. So I don't propose to take time now, because that may be unnecessary, and then, before I come to his first point, so you raised a query about subparagraph three of Article 33 what I would say is that, of course, because of the nature of the requirement, it inevitably requires one To look at the relevant requirement to which is which is engaged in any case. So combining that other requirement, whichever one it may be, with the wording here we say it's entirely it will be entirely clear if there is a third party in the third party in itself is a perfectly understood common term which doesn't therefore need definition. That's fine. So coming on to Mr. Henderson's first point, I confess, sat here now I don't fully see that there is any real issue here. What ultimately this comes down to is an example of one of the things which the relevant planning or authority would need to consider when deciding whether to approve. Any request made under requirement 33 so he simply the criticism, he identifies one of the things which would necessarily be a material consideration for the relevant planning authority and making that decision. And as we pointed out before sub paragraph one is worded and so that the two requirements in question may be deemed to be discharged, and that is, of course, subject to obtaining the approval of the relevant planning authority under paragraph two. And therefore, ultimately, the example that Mr. Henderson gives of one of the material considerations for the planning authority of making that decision becomes a risk or an issue that the applicant will need to address when seeking to persuade the planning authority that that is appropriate in the particular instance. So although I understand the point that is raised, I don't

understand it to be one that calls into question either the principle or indeed the wording of requirement 33

1:11:15

okay, that's understood, just to be clear, though, if the local planning authority did decline because they believed it, it wasn't adequate. The appeal process would still apply, wouldn't

1:11:30

it? It would turn then that then you have all the same considerations apply at the appeal stage. It's simply that you then have a new decision maker appointed to protect the public interest in these matters. And if the relevant planning authority had good reason to consider that the operation of requirement 33 was not appropriate, it would put those matters before that decision maker in the usual way, and there would then be an independent determination of the dispute that had arisen. So it protects the public interest in the same way that the appeals process protects the public interest in planning more generally. So I'm reminded helpfully, that if Mr. Anderson wishes to look at rep 6006, which is obviously only a very recent submission that does address the Yes, it does address the points that were raised just now in terms of relevant part, which I think was his third point and also the fourth point about paragraph c2, so it may be that if consideration is given to that response, and then, as I've said, there'll be a further version coming in at six a which will reflect those changes, because those, those will obviously post date the deadline, five version that Miss Thompson we've seen so far. Thank

1:13:02

you very much for that response. I'm going to briefly ask whether or not either of the local authorities wanted their intended they wanted to speak on this matter. Can I ask red car and Cleveland Borough Council, whereas I think it would primarily affect them seeing requirement three, detail is detailed design, and requirement 10 is surface and fair water drainage, the predominantly things that they would have to deal with. Whether they have any comments. Mr. Miller,

1:13:31

thank you, sir. No specific comments. I was at the previous hearing when the examining authority expressed some concern about the application of this, of this requirement. I think, from our perspective, we are comfortable in that the mechanics to discharge the requirement exist, my only concern, and hopefully this will be resolved before the the issuing of the potential final DCO is is the apparent difference of opinion between the respective parties on how the requirement is applied. I only say that because in some very rare circumstances, the local planning authority can find itself between two parties who have differing views on the application of a condition or a requirement built into the DCO process is, of course, consultation with specified parties before the local planning authority can sit as its position. So we have no particular comments on the mechanics and how the requirement is intended to work. It's clear that it relates to a limited number of other requirements on the Net Zero Teesside order, but we would hope that the where there are differences of opinion in how this requirement might. Operate that those will be resolved before the final decision is made. And you know that that that prevents a circumstance where the planning authority is put in a position of being an arbiter between two different points of view on the application of that conscious also, as Mr. Philpott says there, that it's

always subject to the appeal process, but, you know, one would hope that we would be able to reach an accommodation with all parties on on this requirement. If that was necessary,

1:15:31

that's fine. That's fine in that case, before I go back to the applicant, I'm going to just double check to see whether or not Stockton on teas, Borough Council wishes to say anything with regard to requirement 33 I'm not necessarily anticipating you do,

1:15:47

but just we have nothing, nothing to add. Thank you very much. Alright,

1:15:51

thank you very much. Mrs. Atkinson, just returning to the applicant for a final right of reply.

1:15:59

Thank you. So just very briefly, if I can on the points that Mr. Miller has raised, you'll appreciate that it is a normal part and parcel of the business of local planning authorities when discharging requirements or conditions on planning permissions to have to take a view, an exercise of judgment where there are differences between the person who's applied to discharge a requirement or condition and others who've got a legitimate part to play in expressing a view as to whether it should be discharged. Requirement 33 would potentially mean that you'd have parties making submissions about whether it should be deemed to be discharged and so on. But that's no different in principle to a number of other requirements, and indeed, I anticipate that that would apply in a number of cases. There may be differences of view down the road about these things, and that's one of the reasons why they're drafted in the way they after that everyone's views can be taken into account, and the public body that is charged with the duty of dealing with these matters and expressing a judgment can do so. So I understand the point that I don't think that it actually goes to the principle or the drafting of the requirement. Yeah,

1:17:21

understood, just as a final point before we move on to the next agenda item, just to draw your attention, you said you're submitting a revised or an updated deadline, six a there's a couple of typos in the in the the requirement 33 requirement 33 one a refers to requirement 11. It should refer to requirement 10. At the same in 33 1b and also in 33 1b it refers to sub sub paragraph. And I think it's got too many subs in there, just to that you check it. It's It's neither here nor there. It's just for when you submit your revised version. Really, I'm sure you've already picked it up.

1:18:15

Thank you. So that those are helpful, we will take those away and we'll either make the changes, or if it turns out some kind of reason for it, then we'll explain the response. But that's helpful to have that say, Thank you, sir. That's

1:18:30

okay. In that case, we've already asked whether anybody else wanted to say under anything under item four, and nobody indicated we've covered off item number five, and I'm going to move on to item number six. Then, unless anybody has any concerns about that, just pause briefly to see if anybody raises their hand. Nobody is so Item six relates to consent licenses and other agreements, including how the proposed development will interact with other DCOs, planning consents and other emerging developments. So the question we set out in the there's a couple of questions in the section, but the question, the first question in we set out in the agenda, was in the light of the accepted change request, and irrespective of the applicants oral submissions made during issue specific hearing, too, can the applicant provide an overview of the consent licenses and other agreements required in order to undertake the proposed development As previously outlined in issue specific hearing two, and can they pro regular progress and timescale for completion of such consents, licensing and other agreements, including an update concerning any agreements may be necessary under section 111, of the Local Government Act 1972 or section 106 of the Town Country Planning Act 1990 and again, the timescales if such documents are required. So.

1:20:00

In terms of legal agreements, section 106 Town Country Planning Act 1990 and planning performance agreements. Here, examining authority is cognizant of the applicant's response given during the issue specific hearing to where advisor was not relying on any section one six agreements, nor had it been asked to provide any planning performance agreements, or had it given any. However, in asking this question, we're also mindful of Stockton on T's borough Council's deadline, five, a, five response, which is rep, 5061, where, in responding to the examining authority second written question, q2, 613, related to the area referred to as cap and beauty open space replacement LED it advised that it was proposing ongoing management, proposing ongoing management funds preferred by means of a commuted lump sum. The applicant's response to this is deadline, six, six, which is rep 6006, is noted and it advised it would not be adverse to the principle of the concept of commuted sum, but further discussions would be required to understand the details of it. In responding to this question, can the application? Can the applicant also shed any further light on this matter? And if an agreed lump sum is to be secured by or sorry, community lump sum is to be secured? How it's to be secured? Just so that the examining authority is clear what procedures are being used in relation to that community lump sum? Please.

1:21:25

Thank you, sir. Harry wood, Phil Park Casey, on behalf of the applicant, what I'm going to do is I'm going to deal with this in three stages. First of all, I'll deal with the position in terms of the change request. Then I'm going to pass on to Mr. Nixon to deal with progress and timescales, and then, thirdly, I'll come back to you and deal with the issue that you just raised in relation to the carp and Bewley land. So so the key other consents and licenses required for the development are as outlined in the other consents and licenses statement that was updated at deadline. Five, that's rep 5009 on the 18th of December, no other additional consents or licenses beyond those already envisaged are anticipated to be required as a result of the change request. And as to the progress and time scales for completion of relevant consent licenses and other agreements. I'm going to hand over now to Mr. Ross Nixon to address you on that matter, and then I'll come back to deal with the third point at the end. So thank you Good

1:22:36

morning, sir Ross Nixon, on behalf of the applicant, so I can provide a further update to you to the position that we outlined in is h2 on the 14th of November for some of the key early consents that are already in train. And the three that we spoke about on the 14th of November were the environmental permits, the control of major accident hazards application, the coma application and the hazardous substances consent. I can also provide an update on the position with respect to the district level licensing application made to Natural England, yes, the presence of great crested newts in the cowpenwly woodland area, if that's of interest, it is okay. So for turning to the environment environmental permit at is h2 the applicant were awaiting the Environment Agency to complete their review of the additional information submitted on the 11th of October. And I confirm, can confirm this has been completed. The environmental permit was duly made on the sixth of December. This was as we outlined in the updated consents and licenses statements submitted at deadline five. I note that the EA did not concur in their deadline five submission, but the applicant has since received confirmation from the A this is indeed the case, and this was submitted into the examination at deadline six, and that was appendix one to the applicant's responses to Deadline five submissions, which IS rep 6006, so the applicant now expects the permit determination period and consultation to take several months with the decision later in 2025 and that's not expected to be completed prior to the end of the examination. But just by way of an update, as was discussed yes in the hearing yesterday. For your information. We were informed yesterday by the Environment Agency that the consultation on the environmental permit application will go live in five to 10 working days, so that should be imminent. Thank you very much for that update. Turn into the coma. Application, there's, there's, as as we outlined previously, a COVID notification and safety report must be submitted under the control of major accident hazard regulations, three to six months prior to the start of construction. So this is informed by the front end engineering design and as per the schedule given in chapter five of the construction program and management, which is a PP, 057, the earliest construction is anticipated to start on Phase one is q4, 2025, so So essentially, on, on that one there is, there is no particular the position hasn't changed. The applicant is seeking a meeting with the HSE in early 2025 to specifically discuss the timeline for submission of the coma application. Date for that hasn't quite been confirmed yet, right?

1:26:05

Okay, that's fine. Can you move on to your next update? Then, mister, hazardous

1:26:11

substances consent again, I think, as we outlined in in the previous hearing, the application for hazardous substances consent is submitted six to 12 months prior to the hazardous substances being present on site, which would be prior to commissioning of the plant. So as such, this won't be submitted until 2027 so again, there's no there's no update on that one, sir, that's

1:26:37

fine. Thank you very much. And then I believe we're going back to Mr. Philpott.

1:26:45

I could just brief update on district level license. Oh, yes,

1:26:51

absolutely news, yes, sorry, apologies for that. I did say I wanted to hear about that, and then I've cut you off too early. So apologies.

1:26:58

So examine authority. Be aware that the great crested newts have been detected in a pond within the COVID beauty woodland area. And although the pond is not directly impacted by the project, it's within 250 meters of the red line boundary, as are a number of other ponds that provide suitable habitat, but where great crested newts weren't detected. So as such, a district level licensing inquiry was first submitted to Natural England on the 22nd of January last year, 2024 following engagement with Natural England payment of the first stage conservation payment, what's called an impact assessment and conservation payment certificate and iacpc was kind of signed by Natural England on the 21st of October, 2024 we submitted a copy of that into the examination in a deadline six, and that was rep six, dash 007, the district level licensing process consists of five stages, and the applicant are now at step three. Stage three in the process. So that's update on that one. Yes, I've,

1:28:18

I've looked at a rep 6007, it's a red redacted full for obvious reasons so, but I have seen it, so thank you very much. Okay, so in that case, I've got no questions on any of those updates, and I'm going to go back to Mr. Philpott for the final one, with regard to my query regarding the commuted payment,

1:28:49

so Harry would fill put

1:28:52

on behalf of the applicant. So as you noted, what said on behalf of the applicant, deadline six in respect of this matter, my understanding, having taken instructions on this, is that the intention is that this would be dealt with through the property arrangements that are being negotiated at this stage in relation to that land, and that that would be The intention for how any commuted, some would be addressed in legal terms. I would also say that there is scope if if necessary for that to be effectively secured, if that matter is not resolved through the negotiated agreement prior to the end of the examination by Article 29 article 29 as you have seen, change quite significantly in deadline, the deadline five version and. Under Article 29 sub paragraph one, The Undertaker can't exercise the relevant order powers in respect of the special category land until it has, amongst other things, sub paragraph B, obtain the approval of the relevant planning authority for a scheme for the layout of the replacement special category land. Now, at the moment, as drafted, that scheme is specific to layout, but if it became necessary to broaden that out, so that the scheme would include, for example, arrangements for ongoing management that would then put it in the hands of the authority to decide whether or not those arrangements, including any funding arrangements, were adequate, and that would allow for that matter to be controlled pursuant to requirements. So that is an option, which we will explore the point having been raised, but we are hoping, in the first instance, that that matter can be dealt with by agreement, so that then becomes unnecessary for anything on the face of the DCO. But it wouldn't be intended that there would be, as Einstein a section 106, obligation entered into, if necessary, could be dealt with on the face of the order, but we're hoping that won't be necessary.

1:31:28

Okay, that's that's understood. Can I just ask whether or not Stockton on Tease Borough Council want to say anything in relation to what they've just heard? Please do no,

1:31:43

sorry, no, we have no comments on that. Thank you

1:31:44

all right. Thank you very much. Thank you, Mrs. Atkinson. All I just wanted to say about this was that obviously, in terms of how such funding would be secured if it was to be by way of legal agreement, I know you've said it's not, then obviously this set procedures in terms of planning obligations and considerations related to them and making sure that they're necessary for the development to make the development acceptable in planning terms, directly related to the development and fairly reasonably related to the scale and kind of development, kind of their own. So obviously, if that was to be pursued, we would need some evidence to demonstrate that it met those tests, and obviously you're looking at alternative ways to secure it. I just think it's it's important that you, you take it away and give it some further consideration, because I'm going to need to make sure that something is there that enables some comfort that there is a mechanism to secure the payment through the DCO, potentially. So I'd welcome your further thoughts on this, perhaps in writing, once you've had an opportunity to give it some further thought and to comment on how it's actually going to be secured and whether or not anything additional needs to be put into requirement 29 because I've just had a quick look at requirement 29 as you've suggested, it might have to be to ensure that that is adequately secured. Mr. Philcott, did you want to come back at all? No? At all?

1:33:26

Thank you, sir. Harry Wood Philpot, on behalf of the applicant, so we, we will come back to you in writing on that understand the point. Given the fact that the the mechanism to which we will be ultimately referring you to on this is still at large. I think it best rather than trying to give you an answer now that get that resolved if we can, and then tell you how we say it should be secured and what the consequences of that might be for you, for decision making.

1:33:53

Okay, all right, I won't labor the point about whether it's a section 106, or not, because, because clearly you've said there's no intention to do that, but obviously if you did, it would have to be completed and executed before the close of the examination. I'm going to move on in that base, on that basis, unless anybody else wants to raise anything or say anything in regard to this matter. I'm getting, currently getting no indication, so I've got one more question in this section, and then we're on the downward run towards the close of the examination. I wouldn't anticipate it to take more than 10 or 15 minutes. But do people want a comfort break? I'm not getting any indication. Mr. Philpott, do you want to say anything?

1:34:45

No, so simply stay on behalf of the applicant. We're in your hands as to how you would prefer to deal with these matters.

1:34:50

Okay, well, I in that case, as I've got no response, I'm going to continue, because I believe we'll be able to get this done in a relatively short order. And. So we're going to move on to the next point in the agenda item which was related to the deemed marine license. So the examination authority notes the applicant's response in deadline for submission, rep five or sorry, it's response to deadline for submissions which was rep 5051 and especially table 4.1 concerning the marine management organization. We also note that the marine management organization has responded at deadline five A and the fact that they consider that the applicant must satisfy themselves, and consequently the examining authority as the exemption being applicable, and that they can that the applicant can meet the conditions of Article 35 of the marine license exemption activities, order 2011 can the applicant provide, can the applicant provide clarity concerning the exemption from the requirement of the de Marine Lines and how the exam and explain how the examining authority can be satisfied that no deemed marine license will be required, especially when considering that, especially when considering the two conditions set out in Article 35 of the above mentioned order, I'm going to go back to Mr. Philpott to respond to that. Please.

1:36:16

Thank you, sir. Yes, Harry, with Phil but on behalf of the applicant. So the applicants position is that a de marine license is not required and doesn't need to be included in the development consent order, Article 35 of the marine licensing exempting exempted activities. Order 2011 to which you just referred, enables the board tunnel exemption, and that applies to works activity carried on wholly under the seabed in connection with the construction or operation of a board tunnel. And if two conditions are satisfied, condition one is that notice of the intention to carry on the activity must be given to the licensing authority before the activity is carried on. And then condition two is that the activity must not significantly adversely affect any part of the environment of the UK marine area or the living resources that it supports. Now the activities that this exemption would relate to are the proposed trenchless crossings as they pass below the beds of the river tees and greeting Creek only the launch and reception pits for the crossings are inland of mean high water springs and thus outside of the jurisdiction of the marine licensing process. The applicant will need to fulfill condition one of the exemption and notify the licensing authority in advance of the works being undertaken in each care case, and there's no issue arising as to its ability to do so. In respect of condition two, as set out in the statement of common ground with the marine management organization. That's rep five, zero, 55 the applicant is confident that this condition will be met and the activities will not significantly adversely affect any part of the environment, UK, marine area, or the living resources it supports. And that's for the following reasons. First, the proposed trenchless crossings will be installed at a minimum depth of 25 meters below the beds of the river tees and Greece and Creek at the deepest point of the crossings and a maximum depth of 60 meters, and are therefore, therefore so far below the ground as to be unable to affect the marine environment above the ground. And secondly, the launch and reception pits are, as I've said, inland of mean high water springs, and are not therefore, in a position to affect the marine UK marine area or the living resources that it supports. I should add the applicant is intending to provide a detailed response on natural England's comments in relation to potential disturbance to seals at deadline six A, it considers there is only a minimal potential for disturbance to seals, and the applicant is therefore satisfied the exemption is applicable, and it's detailed response that will come at

deadline six. A will provide, we hope, further reassurance to the examining authority as to the reasonableness and robustness of that position. We also note that the marine management organization submitted in both the statement of common ground at deadline five, that's rep five zero, 55 and its comments on any other submissions received at deadline. Four, that's rep five zero, 67 that the MMO wants to make it clear to the examiner authority that the MMO will not be requesting a de marine license to be added now. Not so notwithstanding those points, even in the unlikely event that a marine license was necessary, this would not constitute an impediment to the delivery of the project, given the nature of the activities being so far below mean high water springs, such that there's no reason to believe that any such license would not be granted and only appropriately limited controls would be required in respect of any such license in those circumstances. So that's our position in respect of the de marine license, and that's why we've not included one in the draft order.

1:40:41

Thank you, Mr. Philpot. I've just got one question in relation to that, does does natural England's comment around or concerns around horizontal directional drilling collapse have any implications with regard to this? This matter in any way? I

1:41:10

so I think, given I don't have my relevant ecological witnesses here today, I think that's something that we will be picking up in our deadline six, a response. But certainly I'm not aware that that's given rise to any concern on behalf of the applicant, that no, okay, would not be applicable.

1:41:31

That's understood. But if I could ask you to action that a deadline six, I would be grateful. Indeed. We'll do that so just so I've got some clear understanding as to whether or not HDD collapse as highlighted the potential risk of HDD collapse as highlighted by Natural England, which is being resolved in or potentially being resolved through other channels, and has been discussed under other other issue specific hearing headings, whether or not that has any implications in terms of the deemed marine license, effectively. Thank you very much for that. Does anybody else want to raise anything or say anything in regard to the applicant's response to this particular question? Please?

1:42:21

Okay, I've got no indication, so I'm going to move on. Does anybody want to raise anything under this agenda item at all? I'm getting no indication, so I'm going to move on to other matters and action points arising from today's meeting, as I've just asked about the other agenda item. But there are any other matters related to this issue of hearing into the draft order which have not already been covered that need to be raised. Please. No indication. So I'm going to move on action points. Does the applicant have any notes of action points that they can share with us at all, please? Or do you believe there to be no action points arising?

1:43:14

Thank you, sir. Harry would fill part on behalf of the applicant. So I've got two action points. The first is for the applicant to set out its position on how the payment of commuted sums for replacement special category land will be secured. And the second was to include, within its deadline, six, a response to the

points raised by Natural England, whether it's natural England's concerns about HDD collapse have any implications on the ability to obtain an exemption from the need for a marine license.

1:43:58

Okay? Thank you very much for that. Does anybody else have a note of action points that's an interested party, please.

1:44:12

And does the remaining panel members from the examining authority have any anything they wish to add to action points that they've they've made a note of as we've gone through the agenda, right? I'm getting no indication from the other members of the examining authority, so I'm going to take that as a no what I would say, Mr. Philpott, if you could draft those out and email them to the case team, I would be very grateful, and we'll get the action points out as quickly as we can.

1:44:45

Yes, so we'll do that. Thank

1:44:46

you very much. I'm going to move on to the final stage of the agenda item, which is the close of the examination. Thank you very much. Sorry. Close your hearing. I should say thank you very much. For your participation at this hearing today, it's very, very helpful to hear your responses to my questions. A digital recording of the proceedings today will be made available as soon as possible on the project page and the National Infrastructure website. In addition, I request that you submit any written points that you may have to make you have made today that you wish to submit into, in into, into us by deadline six A, which is Wednesday the 22nd of January 2025, following this issue specific hearing into the draft development consent order. There is no longer a need to use the reserve date for issue specific hearing for which was set for Thursday the 16th of January 2025 at 10am as such, I would confirm that reserve date for issue specific hearing four has been canceled or is canceled. And in accordance with my rule eight, three and 13, letter of the ninth of December, 2024 no other notices required of this cancelation. To be clear, this cancelation of the reserve date only relates to issue specific hearing for and is not related to any other hearings which may still have to use that reserve date. We have one remaining, which is the open floor hearing the this afternoon, so that is the only one that could potentially still be used for that date. All of the other hearings this week have closed and the reserve date wasn't required for them. Once again, I would thank all parties here today, watching the live streaming or watching the Digital recording for their interest in this application. I'd specifically like to thank those that actually taken part and spoken in this virtual meeting today. The time now is 1126, and I declare that this issue specific hearing into the draft development consent order, which is issue specific hearing for for the proposed h 2t side, nationally, nationally significant infrastructure project is now closed. Thank you. Applause.