

6 February 2025

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H2 Teesside Case Team
The Planning Inspectorate (Via Email)
Temple Quay House
2 The Square
Bristol
BS1 6PN

Dear Sir/Madam,

**Representation by Deloitte LLP on behalf of North Tees Group Limited – Interested Party
Reference H2TS- AFP101**

Application by H2 Teesside Limited for an Order Granting Development Consent for the H2 Teesside Project (EN070009)

- 1.1 This representation relates to the application by H2Teesside (the “Applicant”) for an order under the Planning Act 2008 granting Development Consent for the H2 Teesside Project (the “Project”) for a carbon capture enabled hydrogen production facility and hydrogen distribution network.
- 1.2 This representation is made on behalf of North Tees Limited. North Tees Limited related group companies include North Tees Land Limited, North Tees Landfill Sites (Cowpen) Limited, North Tees Rail Limited and North Tees Waste Management Cowpen Limited (“NTL”) in its capacity as both a Category 1 and 2 Person with an Interest in the Land.
- 1.3 North Tees Group’s (NTG) Estate extends to approximately 500 acres and was purchased by the group in 2005. Planning permission was obtained in 2004 under reference 01/2203/P for the phased reclamation (over 4 phases) and development of the land. Since acquisition NTG has been working consistently to implement this planning permission and thereby improving the land asset through the reclamation of land to form development platforms, coordinated management of environmental matters, coordinated provision of infrastructure, completion of mitigation measures and further land acquisition. This active redevelopment plan has been pursued to transition the site into the UK’s first Green Energy Chemicals and Fuels Hub.
- 1.4 The reclamation project (costing in the region of £5 million) required the movement of circa 3 million cubic metres of materials, removal of contamination and the construction of a development platform on phases 1, 2 and 3 as identified on Plan 2. The material used in the reclamation and development comprised high value slag material suitable for road

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construction sourced onsite, such materials could alternatively have been mined and sold if NTG had not been actively pursuing its long term goals to deliver a Green Energy Chemicals and Fuels Hub

1.5 On review of the Project and associated project documentation as submitted, NTL understand there are 57 plots over which the Applicant wishes to secure permanent and temporary acquisition where NTL is the freeholder and 20 plots over which NTL is the leaseholder.

1.6 NTL is supportive in principle of the development for which consent is being sought and recognises it's importance in the energy transition agenda both on Teesside and Nationally. NTL is keen to work with the Applicant to realise its own ambitions for the wider NTL landholding and the re-industrialisation of Teesside.

1.7 However, on review over the submitted documentation, inclusive of the Book of Reference Lands Plans, Works Plans and draft DCO, NTL appear to be materially and disproportionately, impacted by the Project. Unless NTL can be properly satisfied on the matters identified in this letter, NTL's development ambitions on its own land will be significantly and detrimentally impacted.

2 Chronology of Engagement between NTL and the Applicant

2.1 NTL were first contact by the Applicants agents, Dalcour McLaren on the 24th October 2022 by way of a Project Introduction and request for survey access in the NTL landholding. In June 2023 Ardent sought population of Landowner Interest Questionnaires (LIQs) for NTL's property interests.

2.2 Survey access has been granted to Applicants project team for a number of environmental and engineering surveys since 2023 with NTL providing a site induction and review of access protocol on each occasion.

2.3 A meeting was held on site between NTL, Dalcour McLaren and BP on the 8th April 2024 to discuss the H2 Teesside and Net Zero Teesside DCO (Reference EN010103) (N2T). During this time concerns were raised by NTL about the use, access to and future maintenance of the pipeline corridor, informally known as the Air Products corridor, shown on Lands Plan Sheet 9 parcels 9/27, 9/32, 9/33, 9/40. This corridor was created exclusively for Air Products as part of a wider commercial transaction for a limited number of specific pipes. The current occupier (under terms of an underlease (Lighthouse Green Fuels)) do not have the benefit of rights to use this corridor. The estate was planned on the basis of specific common use service corridors, and these are located to the north of Huntsman Drive and to the west and north of the land known as Reclamation Pond, they are shown for identification purposes only (Appendix 1). NTL explained to the Applicant that the common service corridors would

need to be used by the Applicant and NTL understood that position was agreed by the Applicant, on review of the Consultation Report as submitted, NTL were disappointed to understand that not only was the meeting not referenced, but subsequent changes as verbally agreed to were not accommodated in the Order Limits as presented to the Examining Authority.

2.4 Draft Heads of Terms were received from the Applicant on 5th June 2024. The Applicant advised NTL that they did not wish to meet and discuss these as they wished to focus and spend their time instead resolving the commercial position on NZT.

2.5 The Applicant further advised in email correspondence, dated 5th June 2024, to NTL that bespoke Protective Provisions would be included in the draft DCO, however on review of the same we have been unable to locate any. **This is a significant issue which must be addressed urgently by the Applicant.**

2.6 Engagement by the Applicant with NTL, by way of email correspondence, last took place on 5th June 2024 by virtue of receipt of the Heads of Terms.

3 Need for Protective Provisions and other protections

3.1 The NTL entities are materially affected by the land acquisition and rights sought by the Applicant. It is crucial that the ability of the NTL entities to exercise their rights at Teesside are not impeded by the project, to ensure the current and future operation of NTL facilities including its future development ambitions.

3.2 As referred to in paragraph 2.6, the Applicant assured NTL by an email dated 5th June 2024 that they had “included bespoke Protective Provisions within the draft DCO”. To ensure NTL's interests in its landholding are safeguarded and to avoid any prejudicial impact on its own project and future operations, NTL require the inclusion of Protective Provisions in the DCO. As submitted, the draft DCO fails to include any protections for the benefit of NTL or its landholdings. NTL will be seeking a costs undertaking from to Applicant to develop and negotiate a suite of protective provisions to safeguard the operation and maintenance of and access to its existing and future assets within the NTL landholding (These will be provided at Deadline 8). Despite requests no draft protective provisions have been received. These protective provisions fall into two categories:

3.2.1 Protective provisions relating to the link line corridor that is operated by Sembcorp but owned by NTL. Currently there do not appear to be any protective provisions benefiting Sembcorp and owners of the link line corridor and therefore the NTL protective provisions will need to be developed to provide necessary protection to NTL as owner of part of the link line corridor. These provisions will be based on those developed for NZT

Development Consent Order where the protection for NTL arose by virtue of the protective provisions contained in Schedule 12 Part 17 and Part 27 of the NZT DCO.

- 3.2.2 Protective Provisions relating to the other landholdings of NTL which will be based on those developed for SABIC recognising that the Applicant is seeking rights over common access roads, rail lines, rights to lay service media over land that is owned operated, managed and controlled by NTL.

In both cases it is of critical importance that the routing of any pipeline is approved by NTL, does not unnecessarily sterilise land, does not cause an increased hazard, allows for use of the corridor by other existing and future users, allows for maintenance activities, clear access for emergency services and environmental monitoring by NTL through its third party consultants (who have 20 years' experience of monitoring the estate). NTL considers this to be consistent with ongoing negotiations regarding NZT.

- 3.3 As the protective provisions are developed, NTL reserve the right to make additions to the list.

- 3.4 Key landholdings of concern where freehold acquisition and permanent rights sought are as follows:

3.4.1 Works Plans Sheet 16: Overground and Underground pipelines to connect to Work no. 6B.2 NTL requires an undertaking that their access will not be obstructed, and private access rights retained for the duration of the Project.

3.4.2 Works Plans Sheet 18: Work no. 6A.1 – Hydrogen Distribution Network – Overground and Underground pipelines. NTL requires an undertaking that rights sought will not interface with the railway line nor its ability to become live in the future. Furthermore, the rights sought in proximity to the proposed Above Ground Installation will not compromise the active service corridor status of multiple parties.

3.4.3 Land Plan Sheet 5 references a number of parcels where the Applicant is seeking to compulsorily acquire permanent rights and temporary use of land that particularly affects North Tees Rail Ltd. There are a large number of parcels, of particular concern are parcels 5/36, 5/37, 5/38, 5/39, 5/40, 5/51, 5/57, 5/64, 5/68, 5/69, 5/90, 5/91, 5/93, 5/92, 5/102, 5/103, 5/106. These parcels comprise part of the Greatham Creek branch line, this land was acquired by NTL as part of its overall site assembly, specifically to provide rail access. Track infrastructure remains in place and in particular it should be noted that there is a rail junction within parcel 5/64 and 5/65. NTL objects to the extinguishment of rights over this land particularly if those rights prevent the

landholding being used for rail purposes. Protective Provisions are necessary to preserve the railway line for future operational use by NTL.

3.4.4 Works Plans Sheet 37: Work No. 10A.1 Access Highway Improvements and Use. NTL is concerned about the proposals to utilise the private road network within the North Tees Estate particularly the roadway known as Huntsman Drive. The roadway is contained within parcels 8/1, 8/2, 8/3, 8/4, 8/5, 8/6, 8/12 and extends into land that is occupied by SABIC under the terms of an existing lease (NTL being the freeholder). Huntsman Drive is an emergency road serving multiple parties. The Applicant has confirmed to NTL on numerous occasions during the commercial negotiations relating to NZT that it did not need any permanent rights over Huntsman Drive or the other internal private estate roads within the North Tees Estate. The Applicant, in the context of NZT has confirmed that all access would be dealt with over land to the north of the NTL landholding. Furthermore, to the extent that the Applicant wished to negotiate a commercial position on rights over the private roads the Applicant stated position has been that such rights are not essential and they could manage without such rights. The first time that NTL was aware that permanent rights were being sought by the Applicant was at meeting on the 8th April 2024. NTL made clear that their reserved their position to that agreed in the NZT position. On the basis that the NZT DCO did not necessitate any such rights then NTL consider that it follows that the rights are not needed in relation to H2. If, however, it is determined that rights over any roads and or tracks should be included within the H2 DCO then NTL would make the following points:

3.4.4.1 The exercise of such rights must be subject to reasonable rules and regulations regarding the use of the private road and track network.

3.4.4.2 The Applicant must be obliged to pay a fair proportion of the costs of maintaining repairing and renewing the private road and track network in common with other road users.

3.4.4.3 The rights should be time-limited for the construction period only thereafter maintenance access may be obtained via the link line corridor.

3.4.4.4 No existing rights should be extinguished, and the access must not be obstructed as the private road and track network is used at all times both by NTL and its tenants and other occupiers. The road and track network also provides essential emergency access for emergency services.

3.4.5 Works Plans Sheet 39: Work No. 10A.1 Access Highway Improvements and Use. Please refer to our position at 3.4.3 in respect of Land Parcel 8/13. This is a private road network, with access needed at all times.

3.4.6 Works Plans Sheet 20: Work No. 6A.1 – Hydrogen Distribution Network – Overground and Underground Pipelines Work No. 6B.1 – Hydrogen Distribution Network - Above Ground Installations:

3.4.6.1 As referred to in paragraph 2.3 above NTL understood that the Applicant agreed that position and the route of the proposed pipeline would be moved to the common service corridors that have already been designed and laid out within the estate.

3.4.6.2 NTL maintain and manage a number of monitoring boreholes that are located within or in close proximity to land parcels 9/28, 9/27, 9/32, 9/31, 9/34 (Please see Appendix 2). These boreholes are critical infrastructure in relation to the monitoring and management of groundwater and potential contamination or migration of contamination and must therefore be protected throughout any construction period. NTL require anyone undertaking works on their land to comply with detailed rules, regulations and environmental monitoring to ensure the protection of the environment; boreholes must be maintained and not damaged in anyway. This is particularly important given the historic uses of NTL's land for the production of chemicals including petrochemicals.

3.4.6.3 The area of land to the west of parcels 9/28, 9/31, 9/34 and 9/37 is a development site authorised by planning permission 01/2203/P, approved 28th January 2004¹, the land is in the process of being infilled to form a development platform. This is a substantial works project. As the terms of the EA licence granted, approx. 2,200,000 tonnes of controlled waste can be accepted by the site over a period of approximately 10 years. As part of these works it is necessary to maintain the hydrological link between adjacent land and the River Tees and deal with the planning and construction of facilities to manage surface water. In practical terms this means that it is inappropriate for land parcels 9/28, 9/31, 9/34, 9/35, 9/37, 9/36, 9/38, 9/39, and 9/42 to be designated or use either in relation to rights of way and or temporary use land. Such a designation would prevent NTL from being able to carry out its operations and construct essential SUDs and other water management facilities. Or alternatively appropriate undertakings will be

¹ Reclamation of 66ha of land and industrial reservoir known as Reclamation Pond (for General Industrial (B2) Uses) and the creation of a wetland habitat (Port Clarence Pool) south of the Petroplus facility, Land at Huntsman Drive (Reclamation Pond), and Seaton Carew Road (Port Clarence Pool), North Tees, Billingham.

needed from the Applicant to ensure that construction projects can co-exist, NTLs rights are not extinguished, and NTLs operations can continue unhindered.

3.4.6.4 Parcel 8/13 identified on Lands Plans Sheet 8 is the sole access for NTL's office as a result rights need to be preserved and access maintained at all times. In addition, this land together with parcel 9/42 and 9/33 form operational routes for the infilling operation and formation of the development platform. NTL has an existing permission and via EA Licence ERP-GB3508LD for the carrying out of these operations. In addition, NTL intends to construct a weighbridge within parcel 8/13 in connection with the infilling operations.

3.4.6.5 NTL object to the extent and designation of parcel 9/19 on Lands Plan sheet 9. It was specifically agreed within the NZT discussions that this land was for temporary use only as a construction and maintenance strip. Furthermore, it was agreed that the parcel would be reduced in size to remove a section at the westernmost extent to ensure that the land to the south was not landlocked from accessing the link line service corridor. The current plans do not reflect the position that has been agreed in the context of NZT.

3.4.6.6 NTL have significant concerns about the permanent acquisition of parcel 9/16 as this will severely obstruct and restrict access to the link line corridor. NTL's land benefits from rights to use the link line corridor and the extinguishment of rights over this parcel will adversely impact the NTL landholding and its future use. access across parcel 9/16, which is an important location from the NTL landholdings, onto the SembCorp Link-line corridor. It is important that rights are not extinguished as it services the proposed northern service corridor.

4 Conclusion

4.1 NTL is supportive in principle of the development for which consent is being sought and recognises its importance in the energy transition. NTL is keen to work with the Applicant to ensure it is able to continue its important operations and realise its own significant proposals for the wider NTL landholding and the re-industrialisation of Teesside.

4.2 As set out above it is crucial to NTL's current operations and future development ambitions that it's rights of access and freehold ownership are maintained in the fullest extent possible.

4.3 NTL has previously received written assurances from the Applicant that bespoke protective provisions would be included within the draft DCO to protect NTL's interests. However, this has not occurred and must be urgently addressed by the Applicant. It is essential that a suite of robust protective provisions are agreed with NTL and included within the draft DCO to

safeguard NTL's operations, interests and development proposals. It is vital that the Applicant engages swiftly on this matter given the time remaining prior to the end of the examination. In the meantime, until satisfactory protective provisions are agreed and included in the DCO, NTL must object to the application.

Kind regards


Deloitte LLP

Appendix 1 Common Services Proposal Route
Appendix 2 Borehole Monitoring Plan