

H2Teesside DCO Examination

South Tees Group (20049389) – Deadline 7A Submissions

As per the Examining Authority’s procedural decision and request for further information dated 10 February 2025 [PD-020], STG’s primary Deadline 7A submission relates to the Applicant’s second change request [REP7-011] (“the change request”).

STG also includes summaries of its responses to the matters raised by the Examining Authority in Appendix B to the same 10 February letter as noted above [PD-020].

1 The change request

- 1.1 STG welcomes the Applicant’s removal from the Order Limits the area of overlap between the Proposed Development and the proposed NatPower BESS site.
- 1.2 STG also welcomes the Applicant’s reduction to the Order Limits in the Foundry / Phase 2 area on the main site. However, STG considers that the change request does not go far enough in reducing the Order Limits, for the reasons set out in section 2 of this submission.

2 STG’s remaining objections

- 2.1 STG’s position, following the change request, is that all of the retained Phase 2 land should be removed from the Order Limits, along with the ‘Red Main’ (plot 13/11) and the proposed pipeline corridor that links the main site to RBT land [REP7-003]. This is necessary because these elements still clash with other critical national development STG is bringing forward on this site.
- 2.2 As STG has stated throughout the Examination – primarily in its Relevant Representation [RR-003], its ExQ1 responses [REP2-110], its CAH1 [REP4-056] and CAH2 [REP6A-037] submissions – there is no justification for inclusion of these areas within the Order Limits and the “compelling case in the public interest” test has not been met, because:
 - 2.2.1 Phase 2 of the development will blight and prevent other development on the Teesworks site, but it is speculative and STG has no confidence that the land will ultimately be utilised – this is demonstrated by the fact that (contrary to compulsory acquisition guidance) the Applicant has not negotiated with STG to acquire the Phase 2 voluntarily;
 - 2.2.2 STG, the landowner whose private interests are a critical consideration in the compulsory acquisition context, is actively pursuing other nationally significant development on the areas which were not removed from the Order Limits, namely
 - (a) the retained Phase 2 land;
 - (b) the ‘Red Main’ construction access (plot 13/11); and
 - (c) the proposed pipeline corridor that links the main site to RBT land.

- 2.3 By way of context on the last point, which is of critical importance to STG, South Tees Development Corporation obtained outline planning permission (ref. R/2020/0821/ESM) on 2 March 2022 for land referred to as 'the Foundry' on the main Teesworks site. The outline permission area extends to 131 hectares / 323 acres and includes a large part of the land within the Order Limits as well as adjacent land to the immediate west (now removed from the Order Limits with the Applicant's second change request). That outline planning permission approved the development of up to 464,515sqm (gross) of general industrial (Use Class B2) and storage and distribution facilities (Use Class B8) with office accommodation (Use Class E), HGV and car parking and associated infrastructure works. All matters (appearance, landscaping, layout, access and scale of the development) were reserved for subsequent approval.
- 2.4 Condition no. 4 of the outline planning permission requires that development, when designed in detail and brought forward for reserved matters approval, must be in accordance with a parameter plan establishing, among other matters, a maximum development height of 46.2m AOD across the 131 hectares.
- 2.5 There are no conditions attached that limit either the number of workers within any one building or the number of storeys within buildings. No such conditions were necessary to impose because the site did not fall within a registered 'inner zone' associated with any Hazardous Substance installation. If it did fall within a registered inner zone, the Health and Safety Executive ("**HSE**") as consultee on the application would have advised against the grant of permission without a condition being imposed to restrict occupation of any building to fewer than 100 occupants and three occupied storeys, in line with HSE standard advice.
- 2.6 It is STG's intention to bring forward development on the land to which the outline permission relates, adjacent to the Proposed Development, and to seek reserved matters approval for such. That development may well comprise buildings of three or more occupied floors (within the permitted 46.2m AOD height parameter) and potentially accommodate more than 100 workers in any one building. The principle of developing at such scale and density is approved, without restriction, through the outline planning permission.
- 2.7 STG notes it is the Applicant's intention to pursue a Hazardous Substance Consent ("**HSC**") following any consent to the Order and following the detailed design of the proposed development, at which time the quantity and ranges of hazardous substances are expected to be known [[REP5-009](#) / [APP-218](#)]. By the time the Applicant makes its HSC application, development on adjacent land at the Foundry is likely to have been brought forward – or at least consented through reserved matters approval pursuant to the existing outline planning permission. Any such development involving three or more occupied floors and over 100 workers would appear to present a significant issue for the delivery of the Proposed Development and the Applicant's ability to obtain an HSC.
- 2.8 It is appropriate for the Examining Authority to understand the potential implications and limitations that such a scenario would have on the delivery and / or scale of the Proposed Development's operation, prior to making its recommendation to the Secretary of State.
- 2.9 If the Applicant considers that the extent and type of hazardous material on site would be such that an HSE inner zone would either not be established or be contained to the immediate Order Limits rather than encroaching onto adjacent land (including that within the Foundry outline

planning permission), then the Applicant should demonstrate same to the Examining Authority or Secretary of State before the Order is consented.

- 2.10 If the Examining Authority or Secretary of State is then satisfied with the evidence, a DCO commitment (e.g. a new Requirement or protective provision) should be imposed on the Order as made to ensure that the Proposed Development stores and manages hazardous material in a manner which does not establish any HSE inner zone outside the Order Limits. STG considers that any such commitment within the DCO would address its concerns that STG's own development on adjacent land could impact the delivery of the Proposed Development.

3 Response to Examining Authority's Deadline 7A Information Request

- 3.1 Pursuant to Annex B to the 10 February letter [[PD-020](#)], STG's responses are set out in the table below.

Questions/matters raised under EPR Rule 17	Question/matter to:	Question/matter:	STG's response:
2.	IPs	<p>The Examining Authority (ExA) would invite all IPs to summarise their position, in regard to:</p> <ul style="list-style-type: none"> i) any outstanding objection(s); ii) Protective Provisions (PP); iii) CA/ temporary possession; and iv) the status of any side agreement, interface agreement or other relevant agreements they consider necessary to provide relevant protections or mitigations from the Proposed Development. 	<p>i)</p> <p>STG's outstanding objections are set out above; and summarised below and in its Deadline 7A covering letter.</p> <p>STG objects to the inclusion within the Order Limits of any retained Phase 2 land, the 'Red Main' plot 13/11 and the pipeline corridor on the main site [REP7-003].</p> <p>STG objects to any of its land at the main site, regardless of whether it is within the Order Limits, potentially falling within an HSE inner consultation zone for hazards as a consequence of the design or operation of Proposed Development.</p> <p>STG objects to the extent of the Applicant's powers under the Order across the Teesworks estate, including in relation to linear works (pipelines, streets) and requires additional controls over these to prevent unacceptable impacts on the Teesworks estate. The Applicant's preferred form PPs included on the face of the Order do not go nearly far enough in this respect, and so STG has submitted its preferred form PPs (see also point (ii) below).</p> <p>ii)</p> <p>STG provided the Applicant with its updated PPs on 15 and 17 January, the parties met online on 27 January to discuss STG's proposed amendments, then the Applicant included its preferred form PPs in its Deadline 7 dDCO submission [REP7-014].</p>

Questions/matters raised under EPR Rule 17	Question/matter to:	Question/matter:	STG's response:
			<p>Agreement has not been reached since then on a mutually acceptable form for inclusion in the DCO, and it is understood that the Applicant will be submitting at Deadline 7A its preferred form. Pursuant to row 5 of Annex B to the Examining Authority's 10 February procedural decision letter [PD-020], STG is therefore submitting as a separate document its preferred form of PPs with explanations for the unresolved differences. STG does not consider the remaining points of difference are capable of resolution before the end of the examination.</p> <p>STG also reiterates its Deadline 7 request [REP7-062] for the Examining Authority to recommend that the Secretary of State include its preferred form of PPs in the Order in place of the Applicant's preferred form.</p> <p>iii)</p> <p>Although STG welcomes the Order Limit reductions described in the Applicant's second change request at Change Areas 1 and 5 [REP7-011], its position on the Applicant's CA/TP powers remains as most recently summarised in points 1 and 3 of its CAH2 submissions [REP6A-037]. Specifically, and as suggested at point (i) above, STG still does not consider that the Applicant is justified in acquiring any land still included at the Foundry site outside of Phase 1 of the Proposed Development – being approximately the location of work 1A.2 (as retained), the 'Red Main' or the pipeline corridor.</p> <p>iv)</p> <p>Despite intensive negotiations, STG and the Applicant did not conclude a side agreement before Deadline 7 on remaining points of dispute.</p>

Questions/matters raised under EPR Rule 17	Question/matter to:	Question/matter:	STG's response:
			<p>Negotiations were stopped at that time because of seemingly irreconcilable differences over the HSE consultation zones for hazards noted in STG's Deadline 7 submission [REP7-062], at point (i) above in this table, and in section 2 of this document.</p> <p>Sufficient protections and mitigations for STG's interests and apparatus at the main Teesworks site have therefore not been secured by way of a side agreement.</p>
5.	Applicant and relevant IPs	<p>Pursuant to the matter highlighted in 3. above, as stated by the ExA at a number of the Hearings, the ExA will not be asking the Secretary of State to decide and consult further on which version of a PP to include in the final Development Consent Order (DCO) if any are not agreed by the close of the Examination. To that end, please can all parties who are negotiating PPs, including the Applicant, provide by DL7a on Monday 17 February 2025 a statement of agreement of a single version of PPs with that agreed version presented to the ExA. If this is not possible please provide the following:</p>	<p>STG and the Applicant have not reached agreement on preferred form PPs. STG is independently submitting its preferred form PPs at Deadline 7A, as both a clean copy and a version with tracked changes.</p> <p>As regards the reason for the disagreement and why it has not been resolved, STG considers that the Applicant has not incorporated the drafting that STG requires to protect its interests and apparatus in light of the insufficient Order Limit reductions made with the second change request [REP7-011], the powers the Applicant is seeking in the Order (especially those relating to land acquisition), and the HSE consultation zones issue noted in STG's Deadline 7 submission [REP7-062] and as discussed elsewhere in this document.</p> <p>Regarding the potential consequences if the disagreement is not resolved in STG's favour, STG's preferred form PPs have been designed to protect its apparatus and interests in the land. Without these protections, STG's prevailing concern throughout this Examination – the sterilisation of STG land at, and serious restriction of its development plans for, the main site</p>

Questions/matters raised under EPR Rule 17	Question/matter to:	Question/matter:	STG's response:
		<ul style="list-style-type: none"> • Your preferred version of PPs which should be highlighted to show where there is disagreement. • Commentary as to the reason for the disagreement and why this disagreement has not been resolved. • Commentary on the potential consequences if this is not resolved in your favour. • Statement of progress on any side agreements. 	<p>that would accompany the unconstrained powers in the Order as drafted – remain unresolved.</p> <p>As noted in its response to point (iv) for question/matter 2 above, STG and the Applicant have ceased progressing any side agreements due to seemingly irreconcilable points of disagreement, in particular the HSE consultation zones issue noted in STG's Deadline 7 submission [REP7-062] and as discussed elsewhere throughout STG's Deadline 7A submissions.</p> <p>STG understands that all parties will have a further opportunity to comment on DL7A submissions at DL8 on Monday 24 February 2025, and that, if PPs are subsequently agreed after DL7A and before the close of the Examination, the ExA will accept these as additional submissions at any time between DLs with conformation from both parties that these are an agreed version.</p>
15.	Applicant and IPs with whom the Applicant is seeking to enter into a SoCG	The ExA has revised the Examination timetable in relation to the submission of final versions of SoCG (ie signed and dated versions of the document) to DL7A (Monday 17 February 2025). Should it not be possible to submit final SoCG by DL7A, the Applicant and relevant IPs are asked to provide, by the same DL, a detailed explanation as to why it has not been possible to provide a final SoCG,	<p>STG circulated its final SoCG updates to the Applicant on 17 February 2025 to reflect areas of disagreement and add the HSE consultation zones issue noted in STG's Deadline 7 submission [REP7-062] and elsewhere throughout STG's Deadline 7A submissions.</p> <p>STG is content for the Applicant to submit the mutually finalised form of SoCG on behalf of both parties at Deadline 7A, acknowledging that there are remaining points of disagreement.</p> <p>STG reserves the right to provide the Examining Authority with a further update on the above issue regarding HSE consultation zones at Deadline 8, as this remains an active issue.</p>

Questions/matters raised under EPR Rule 17	Question/matter to:	Question/matter:	STG's response:
		including specifying the areas where disagreement remains.	