Meeting note

Project name H2Teesside File reference EN070009 Status Final

Author The Planning Inspectorate

Date 11 March 2024

Meeting with H2 Teesside Limited Venue Microsoft Teams

Meeting Project Update Meeting including draft document feedback

objectives

Circulation All attendees

Summary of key points discussed, and advice given

The Planning Inspectorate (the Inspectorate) advised that a note of the meeting would be taken and published on its website in accordance with section 51 of the Planning Act 2008 (the PA2008). Any advice given under section 51 would not constitute legal advice upon which applicants (or others) could rely.

Update on Timeline

The Applicant provided an update that a targeted consultation had recently closed on Sunday 10 March 2024. The Applicant informed the Inspectorate that the project is likely to be submitted on Wednesday 20 March 2024. The Applicant advised that the application submission would not slip past 31 March 2024.

The Applicant queried about submitting the application on a Friday and the Inspectorate advised that all applications submitted after 5pm will be treated as being received on the next working day, so in this case it would be Monday. The Inspectorate also advised that working days would be affected over the Easter period.

Fees

The Inspectorate confirmed that fees had been received. The Inspectorate advised that if the submission date did slip into the next financial year, then additional fees may be required.

Feedback on Draft Document Review

The Inspectorate recently provided advice on draft documents (copy attached). Firstly, the Applicant highlighted that although the Net Zero Teesside (NZT) project had been referenced throughout the review, this is a separate project to NZT. The Inspectorate acknowledged this and advised the Applicant to clearly explain where different approaches had been taken to the NZT project.

The Applicant also explained that there was an element of flexibility required in the draft Development Consent Order (dDCO) as it is proposed to deliver the Proposed Development in two phases, and flexibility will be sought in relation to where the main site infrastructure components would be built for each phase. The Applicant noted that this has resulted in some repetition in the dDCO wording. The Applicant confirmed that it was the intention to construct the proposed main site first phase initially (Work Nos. "[X]_1") and subsequently the second phase (marked as Work No. "[X]_2"), and that the hydrogen distribution network may be phased. The Inspectorate suggested that the Applicant may wish to consider whether further control on the phasing sequence was required in the dDCO, for example in relation to the triggers proposed in Requirement 30 Carbon dioxide transport and storage.

The Inspectorate queried why the proposed Order Limits had changed since environmental impact assessment (EIA) scoping to include more overlap with the NZT main site parts of the application due to the relationship with the NZT project. The Applicant explained that this was following pre-application discussion with the NZT team about powers for some of the proposed shared infrastructure such as the carbon capture export and water connections. The Applicant will provide a plan illustrating the interaction of the two projects.

The Applicant hoped that these clarifications would be helpful in response to comments raised in relation to the Works Plans and Schedule 1 of the draft Development Consent Order.

The Inspectorate asked how the Applicant would demonstrate regard to advice from the pre-application stage. The Applicant informed the Inspectorate that this may be captured in the application cover letter, but further consideration would be given. The Inspectorate advised the Applicant to clearly demonstrate where changes had been made as a result of draft document feedback.

Submission Arrangements

The Applicant informed the Inspectorate that a draft electronic index would be submitted by Wednesday 13 March 2024. The Applicant is planning on submitting the application via a file sharing site; the Inspectorate advised sending a test link across ahead of this to facilitate a smooth submission.

The Inspectorate asked the Applicant to confirm its publishing preferences; as soon as practical after submission of the application or once an acceptance decision is issued. The Applicant will consider this matter and confirm in due course.

Annex A [to be removed before publishing]

Meeting attendees

| Organisation | Name | Role |
|---------------------------|--------------------|---------------------------|
| The Planning Inspectorate | Hefin Jones | Operations Manager |
| The Planning Inspectorate | Lily Robbins | Case Manager |
| The Planning Inspectorate | Laura Feekins-Bate | Senior EIA Advisor |
| The Planning Inspectorate | Ewen Keates | Case Officer |
| DWD | Geoff Bullock | Planning Lead |
| ВР | Anna-Maria Sexton | Consenting Lead |
| BP | Elnur Ibrahimzade | Project Manager |
| ВР | Ross Nickson | Consenting and Permitting |
| AECOM | lan Campbell | EIA Director |
| Arup | Richard Lowe | Project Advisor |
| Pinsent Masons | Nick McDonald | Legal Lead |
| Pinsent Masons | Matt Fox | Senior Associate (legal) |

H2Teesside - EN070009

Section 51 advice regarding draft application documents submitted by H2 Teesside Limited

On 12 January 2024 H2 Teesside Limited submitted the following draft documents for review by the Planning Inspectorate as part of its Pre-application Service¹:

- 1. Land Plans
- 2. Works Plans Key Plan sheets 1-10
- 3. Works Plans sheets 1-43
- 4. Draft DCO
- 5. Explanatory Memorandum
- 6. PEIR Appendix 12A report to inform HRA screening

The advice recorded in the table below relates solely to matters raised upon the Planning Inspectorate's review of the draft application documents listed above. The advice is limited by the maturity of the documentation provided by the Applicant and the time available for consideration and is raised without prejudice to the acceptance decision or the final decision about whether development consent should be granted.

¹ See https://infrastructure.planninginspectorate.gov.uk/application-process/pre-application-service-for-applicants/



Since the submission of the draft documents for review, the Secretary of State for Energy Security and Net Zero granted consent for the Net Zero Teesside (NZT) project. As such, it is advisable for the Applicant to carry out a comprehensive review of the H2Teesside draft DCO and if necessary, carry out amendments following the NZT decision.

The Inspectorate notes that the Order Limits (as shown on the draft Works' Plans (Document 2.4)) now include the main site of the NZT DCO. It is unclear from the information provided at draft documents stage why this change has been made and any implications for the drafting of the DCO and the assessment of the Proposed Development in the ES. The Inspectorate advises that an explanation should be provided in the DCO application documentation, including information about how it is proposed that the two projects would be managed during construction and operation to avoid conflict and/ or worsening of effects. In addition, the Inspectorate draws the Applicant's attention to the Inspectorate's comments in the Scoping Opinion, which should be addressed in the DCO application:

- ID 2.1.1 the ES should describe the relationship between the Proposed Development and any connected projects, including the extent to which it is reliant on their delivery.
- ID 2.2.2 the ES should explain any implications for the future baseline of the Proposed Development arising in the event that development authorised by the NZT DCO commences.



| Ref No. | Paragraph/ Section | Comment/Question |
|------------|-----------------------|---|
| 1. | General | The Inspectorate notes that the draft Report to Inform HRA Screening submitted forms an Appendix to the PEIR and that there are cross-references in the report to further information in the PEIR, for example at paragraphs 1.2.4, 4.3.11 and 5.1.3. The Inspectorate advises that the DCO application version of the Report to Inform HRA Screening should be updated with cross-referencing to DCO documents, including their document numbers and specific paragraph numbers. |
| 2. | General | The Report to Inform HRA Screening does not include information about any consultation on the HRA that has been undertaken with Natural England as the Appropriate Nature Conservation Body (ANCB). The Inspectorate refers the Applicant to section 6 of Advice Note Ten: Habitats Regulations Assessment relevant to nationally significant infrastructure projects (version 9) (AN10). Evidence of any agreement or otherwise between the Applicant and relevant ANCB on the scope, methodologies, interpretation, and conclusions of the screening assessment should be provided. |
| 3. | General | The Inspectorate notes that several surveys (including for birds) and modelling assessments (including for noise and transport) are ongoing and that, on a precautionary basis the Report to Inform HRA has concluded that Likely Significant Effects (LSE) for several European sites and impact pathways cannot be excluded in the absence of this information, and that these would be considered in a Report to Inform Appropriate Assessment. It is unclear whether this work will be complete at the point of DCO application submission. For avoidance of doubt, sufficient information to inform the competent authority's appropriate assessment (should one be required) should be provided with the DCO application. |



| Ref No. | Paragraph/ Section | Comment/Question |
|------------|-----------------------|--|
| 4. | Paragraph 2.1.3 | The Inspectorate notes from the Report to Inform HRA Screening that there are several European sites and impact pathways where the Applicant could not exclude LSE and that it proposes to submit a Report to Inform Appropriate Assessment with the DCO application. If separate reports are submitted for the screening and appropriate assessment stages of the HRA, any cross-referencing between the reports should use specific paragraph numbers to ensure the relevant evidence can be located. |
| 5. | Section 3.2 | Section 3.2 describes the qualifying features, conservation objectives and threats and pressures for the European sites considered in the Report to Inform HRA Screening. The Inspectorate notes that conservation objectives are not presented for the Teesmouth and Cleveland Coast Ramsar site. The HRA should provide the conservation objectives for this site or explain the approach that has been taken to the HRA in the absence of conservation objectives and provide evidence of whether the approach has been agreed with Natural England, as the ANCB. This section should also identify the conservation status (ie favourable or unfavourable) of the European sites, where this information is available. |
| 6. | Paragraph 4.3.6 | The Inspectorate is unclear what the approach to screening of LSE to the North Yorks Moors Special Area of Conservation (SAC) and Special Protection Area (SPA) from operational atmospheric pollution, as contradictory information is presented, and reference is made to reviewing the conclusion based on guidance for the environmental statement (ES). The Inspectorate advises that this paragraph should be reviewed and amended for clarity and to clearly explain the screening conclusion and the basis on which it has been made. As these are two different European sites with different qualifying features, it may improve clarity to consider the sites separately. |



| Ref No. | Paragraph/ Section | Comment/Question |
|------------|-----------------------|---|
| 7. | Paragraph 4.3.8 | In considering the potential for LSE from operational phase traffic, consideration should also be given to the thresholds in Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations (2018). For clarity, this paragraph should name the National Highways' guidance that is being used as the basis for establishing the screening threshold. |
| 8. | Paragraph 4.4.3 | The list of potential effect pathways during decommissioning includes "effects on foraging resources which support qualifying bird features" in addition to direct habitat loss and loss of functionally linked land (FLL). This additional pathway is not discussed for the construction or operational phase, nor is it referenced in Appendix C Screening Matrices, but from information presented the Inspectorate notes that it is possible it may relate to habitat loss, including FLL. The Inspectorate advises that further information should be provided in the Report to Inform HRA Screening to explain the nature of this effect pathway and for which phases of the Proposed Development it is considered. |



| Ref No. | Paragraph/ Section | Comment/Question |
|------------|-------------------------------------|--|
| 9. | Paragraphs 5.1.1 to 5.1.3 | It is stated that the potential for in-combination effects would be investigated for projects or plans proposing development in "adjacent authorities", with a list of projects and plans provided at paragraph 5.1.3. Limited information is provided about how these projects and plans have been selected. The Inspectorate advises that the HRA should explain the scope and methodology of the in-combination assessment, including any zone of influence that has been applied for the purpose of selecting plans and projects to be assessed. An indication of whether the list has been agreed with relevant consultation bodies, including Natural England, should be provided. Consideration should be given to plans and projects within the host local authority, as well as authorities within the defined zone of influence, not just adjacent authorities. The Inspectorate notes that the offshore component of the carbon dioxide (CO ₂) export, including the Endurance storage, has not been identified in the list at paragraph 5.1.3 (noting that it may be addressed in Chapter 23 of the PEIR). The Inspectorate advises that this project should be considered or the HRA should explain why it can be discounted for potential likely significant in-combination effects. |
| 10. | Appendix A, Figure 1-1 | The Inspectorate notes that Figure 1-1 showing the Order Limits and development components does not appear to be consistent with the current iteration of the Proposed Development, as shown on the draft Works' Plans (Document 2.4). Illustration of the Order Limits and information about the Proposed Development components should be consistent across plans and drawings. |
| 11. | Appendix C Screening Matrices | The Inspectorate refers the Applicant to AN10. The requirement for screening matrices is no longer identified in Advice Note Ten; instead, paragraph 6.1 identifies that Applicants should provide a summary table of all European sites and qualifying features and each pathway of effect considered at each HRA stage for each phase of the Proposed Development. This can be in the form of screening matrices. |



| Ref No. | Paragraph/ Section | Comment/Question |
|------------|-------------------------------------|--|
| 12. | Appendix C Screening Matrices | If the Applicant includes the screening matrices in the submission version of the Report to Inform HRA Screening, the Inspectorate advises that a review of Appendix C should be carried out to ensure that the information presented is consistent. For example, it is noted that Table C1 indicates likely significance effects from noise and visual disturbance during operation are screened out but note b states that on a precautionary basis noise effects cannot be excluded because noise modelling is ongoing. No reference is made in note b to visual disturbance. Note c to Tables C10 and C11 does not explain why the sea lamprey qualifying features is proposed to be screened in for likely significant effects. |
| 13. | N/A | The Inspectorate refers the Applicant to AN10, which requires a copy of the citation/ Natura 2000 data sheet for each European site to be provided as part of the HRA. This information should be included with the HRA Report submitted with the DCO application. |

| Draft I | Draft Development Consent Order (dDCO) and Explanatory Memorandum (EM) | |
|------------|--|--|
| Ref No. | Article/ Requirement/ Schedule | Comment/Question |
| 14. | Page 3 intro | Correct; section 104 of PA2008 applies now that the energy NPS EN-1 has effect for the Proposed Development. |



| Draft I | Draft Development Consent Order (dDCO) and Explanatory Memorandum (EM) | | |
|------------|--|--|--|
| Ref No. | Article/ Requirement/ Schedule | Comment/Question | |
| 15. | Article 2 Requirement 4 | There are definitions of an 'indicative landscape and biodiversity strategy' as well as an 'updated landscape and biodiversity plan'. Should the reference to 'updated' be deleted, as this was particular to the Net Zero Teesside Project (NZT)? | |
| | | Is there a plan, a strategy, or both? | |
| | | Requirement (R) 4 relates to 1) a 'landscape and biodiversity protection plan' and 4) a landscape and biodiversity management and enhancement plan, and 5) f) a landscape and biodiversity strategy – care should be taken with labelling of these documents and definitions in the dDCO to avoid confusion. | |
| 16. | Article 2 | It is not necessary to define the following if they are not otherwise included in the dDCO: | |
| | | CCP, MMO, Royal Mail | |
| 17. | Article 29 | Article 29 (4) has been amended from 12 months to 24 months. The EM states 12 months; which is correct? Explanation should also be given in the EM as to why such a long period for provision of replacement land is proposed. | |
| | | The Inspectorate is unable to comment fully on Special Category Land or its replacement as the plots are not labelled on the submitted plans. | |
| 18. | Article 39 | Article 39 – the Applicant is advised to have regard to the Hillside judgement and recent DCOs which include this type of Article. | |
| | | EM refers to Article 38(3) and (4) in the text of paragraph 3.7.2 – this should be changed to Article 39. | |
| 19. | Article 45 | Many of the definitions refer to Article 45 in terms of certified documents. | |



| Draft | Draft Development Consent Order (dDCO) and Explanatory Memorandum (EM) | | |
|------------|--|--|--|
| Ref No. | Article/ Requirement/ Schedule | Comment/Question | |
| | | Article 45 refers to plans/documents listed in Schedule 13 – this should be Schedule 12 (Schedule 13 is Design Parameters). | |
| 20. | Schedule 1 | It is assumed that the Works will all become clearer once all the documents are submitted including indicative layout, but the Work Nos 1, 3, 6, 9 and 10 as set out in Schedule 1 are particularly confusing. | |
| | | For example on first sight it is not clear whether 1A.1 and 1A.2 are options for one Hydrogen Production Facility or if two are proposed, given they are worded exactly the same. | |
| | | Cross referencing between the Work Nos is difficult due to the labelling. | |
| | | There are also uncertainties over whether connections will be above ground installations (AGI) or underground. | |
| | | This labelling and optionality could lead to confusion during the Examination. | |
| | | Overall, the Inspectorate considers that there is a lack of clarity in the drafting as to whether the separation of some works nos. into parts A and B is enabling two sets of infrastructure to be constructed. For example, Work No. 1.B1 and 1B.2 relating to water effluent treatment plant and 1E.1 and 1E.2 relating to connections and ancillary works seem to allow for construction and operation of two water effluent treatment plants and two flares, one for each phase. The Inspectorate advises that this should be made clearer in the drafting and whatever is proposed should be consistent with what has been assessed in the ES. | |
| 21. | Schedule 1 Works Plan 7 of 10, Sheet 24 | Work No.7 – dDCO refers to carbon dioxide export pipeline and an AGI but the description of Work No.7 on page 12 of the EM also includes a compression station. What are the compression facilities and are they in addition to those already proposed as part of NZT? This area of the extended Order Limits is that which is proposed for the Power Capture and Compression | |
| | | (PCC) site for NZT. See above. | |



| Draft I | Draft Development Consent Order (dDCO) and Explanatory Memorandum (EM) | | |
|------------|--|--|--|
| Ref No. | Article/ Requirement/ Schedule | Comment/Question | |
| 22. | Schedule 2 | The Inspectorate is unable to comment on requirements in detail as no commentary has been given in the EM. In addition, the Inspectorate notes that several of the requirements are drafted based on consistency with principles in the ES. The Inspectorate has not had sight of the ES at draft documents stage, so is not able to provide detailed advice but would advise the Applicant to ensure that there is consistency across application documentation. | |
| | | R4 (5) (g) refers to minimum Biodiversity Net Gain. The minimum level is currently undefined but this will require full explanation in EM as well as the relevant ES chapter. | |
| | | R3, 4, 7, 8, 11, 16, 18, 21, 23, 25, 29 and 32 of the made NZT DCO include consultation with Sembcorp; it would be helpful if the Applicant could explain why are they not included in similar requirements for H2T, but they are included in R31 (Decommissioning).R3, 4, 7, 8, 11, 16, 18, 21, 23, 25, 29 and 32 of the made NZT DCO include consultation with Sembcorp; it would be helpful if the Applicant could explain why are they not included in similar requirements for H2T, but they are included in R31 (Decommissioning) of the dDCO. | |
| | | R18 - NZT DCO includes consultation with Royal Mail, who are listed in Article 2. It would be helpful if the Applicant could explain why are they not included in H2T.It would be helpful if the Applicant could explain why are they not included in the H2T dDCO. | |
| | | R3, 18, and 29 – NZTDCO includes consultation TG Entities, it would be helpful if the Applicant could explain why are they not included in H2T.R3, 18, and 29 – NZTDCO includes consultation TG Entities, it would be helpful if the Applicant could explain why are they not included in the H2T dDCO. | |
| | | In relation to R20 (Construction hours), the Inspectorate notes that the proposed core construction hours are longer than those agreed in the DCO for NZT. It is unclear from the information provided as to why longer hours are being sought and/ or considered appropriate and whether this is consistent with what has been assessed in the ES. The Inspectorate considers that it would be beneficial for clarity that this is explained in the EM. | |



| Draft | Draft Development Consent Order (dDCO) and Explanatory Memorandum (EM) | | |
|------------|--|---|--|
| Ref No. | Article/ Requirement/ Schedule | Comment/Question | |
| | | In relation to R23 (Piling and penetrative foundation design) the need for method statements and mitigation for piling and penetrative foundation design is stated to apply to Work Nos. 1 and 7B; however, the provision for further development at the end of Schedule 1 would allow for piling to take place anywhere within the Order Limits. It should be clear in the DCO application how is it proposed that piling as part of other Work Nos. and/ or in other locations would be controlled to be consistent with the parameters assessed in the ES. | |
| | | R30 – Revisit this Requirement, having regard to the wording of R31 of the made NZT DCO, with particular consideration for the trigger for Work no 7. | |
| | | The NZT DCO included a Requirement relating to a nutrient nitrogen safeguarding scheme (R37). Its currently unclear from the draft documents why this is unnecessary for H2T. | |
| | | Para 2.8.14 of EM should also refer to Hartlepool as a discharging authority. | |
| 23. | Schedule 3 | With regard to the made NZT DCO, consider whether amendments to York Potash Order are necessary, or are Protective Provisions sufficient? | |
| 24. | Schedules 3 to 9, 12 and 13 | Not completed so unable to comment. | |
| 25. | Schedule 10 | Protective provisions not completed so unable to comment on detail. | |
| | | The Inspectorate notes the list of possible protective provisions provided – noting that some which have been included in Schedule 12 of the made DCO for NZT do not appear, notably South Tees Development Corporation? | |
| | | The Inspectorate draws attention to the number of unresolved protective provisions both at the end of the Examination and on issue of the made DCO for NZT, and therefore advises that for H2T as much progress | |



| Draft | Draft Development Consent Order (dDCO) and Explanatory Memorandum (EM) | | |
|------------|--|---|--|
| Ref No. | Article/ Requirement/ Schedule | Comment/Question | |
| | | should be made as possible on the wording of the protective provisions and agreements prior to submission of the application. | |
| 26. | Schedule 11 | Part 4 – Fees – the Inspectorate advises consideration of a reference to the Amendment Regulations which came into force on 6 December 2023. | |
| 27. | Schedule 13 | The Inspectorate notes that the design parameters schedule is not currently populated and it is not in a position to provide detailed comments. The Inspectorate would expect this schedule to be fully populated in the final version submitted with the DCO application, and for it to include parameters for components within Work No. 1, which Requirement 3 of the dDCO (Document 4.1) indicates will be carried out in accordance with the design parameters specified in Schedule 13. The parameters should be consistent with what has been established as the Rochdale envelope for the purposes of assessment in the ES. For Work No. 1 parameters that are not included in Schedule 13, it should be clear how these will be controlled to be consistent with the assessment in the ES. | |

| Works and Land Plans | | | |
|----------------------|--------------------------------------|--|--|
| Ref No. | Plan ref | Comment/Question | |
| 28. | Works and Land Plans – general | Order limits on Works and Land Plans appear to be consistent. Whilst complicated to navigate, the Works Plans shading and legend are acceptable and the Inspectorate notes that this is the same approach as for NZT. The Inspectorate is unable to comment on the accuracy of plots on land plans as no Book of Reference has been provided for review. | |



| Works and Land Plans | | |
|----------------------|---------------------------------------|---|
| Ref No. | Plan ref | Comment/Question |
| 29. | Works' Plans – general | The Inspectorate notes that the proposed Order Limits as shown on the Works' Plans Sheets 1 to 43 (Document 2.4) is different to the red line boundary used in the Environmental Impact Assessment (EIA) Scoping Report (dated April 2023). See above. |
| 30. | Plans – general | The Applicant is requested to submit a plan as part of the DCO application that shows the infrastructure proposed in the overlapping areas of the Proposed Development and NZT project, particularly focussing on the area of Work Nos. 1 and 7 in the NZT DCO, which overlap with Work Nos. 3A.2, 4, 5 and 7 of the Proposed Development. The Inspectorate considers that this plan would be essential to understanding how the projects interact with each other. |
| 31. | Works' Plans – general | The Works' Plans (Document 2.4) do not show the location of Work No. 11 (Landscaping and Biodiversity). It is unclear whether this is an accidental or deliberate omission or if it is because the location and nature of these works has not yet been fully defined. The Inspectorate advises that Work No. 11 should be defined on the Works' Plans. |
| 32. | Works' Plans, Drawings 28 to 33 | Work No. 9A.2 does not appear to be illustrated in the Works' Plans Sheets 1 to 43 (Document 2.4) (Drawings 28 to 33 showing Work No. 9). This should be corrected in the version submitted with the DCO application. |

General

- 1. Where references are provided to other draft application documents it would be beneficial to provide the full title thereof inclusive of document reference number. Should further draft documents be provided for review, the Applicant may wish to consider providing a full list of known application documents (for purpose of signposting) as well as their respective reference number.
- 2. [MHCLG] Application form guidance, paragraph 3, states: "The application must be of a standard which the Secretary of State considers satisfactory: Section 37(3) of the Planning Act requires the application to specify the development to which it relates, be made in the prescribed form, be accompanied by the consultation report, and be accompanied by documents and information of a

prescribed description. The Applications Regulations set out the prescribed form at Schedule 2, and prescribed documents and information at regulations 5 and 6."