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Date: 4 December 2023

Dear Project Team

## **Section 56 Planning Act 2008: Statutory Consultation – Immingham Green Energy Terminal Project**

Thank you for your letter of the 25 October 2023 regarding the proposed Immingham Green Energy Terminal Project.

### **HSE's land use planning advice**

#### **Chemicals**

1. HSE's role in NSIPs is summarised in Advice Note 11 'Working with public bodies in the infrastructure planning process' Annex G on the Planning Inspectorate's website [[Advice notes | National Infrastructure Planning \(planninginspectorate.gov.uk\)](#)] - [Annex G – The Health and Safety Executive](#) (Annex G). This is HSE's response to land-use planning under Annex G.

#### **HSE's (Chemicals) Land Use Planning Advice [Annex G]**

##### **Will the proposed development fall within any of HSE's consultation distances?**

2. According to HSE's records, the proposed site boundary for this Nationally Significant Infrastructure Project falls into the consultation zone of several Major Accident Hazard Sites ['MAHS'] and close to the consultation zones of a Major Accident Hazard Pipelines ['MAHP']. This is based on 6.3 Figure 11.1 "Site Location Plan" 19 October 2023 [[APP-098](#)].
3. The major accident hazard sites are (HSE site 'H' references):
  - H0411 Exolum Immingham, East Terminal
  - H0422 Tonox Pigment UK
  - H0974 Associated Petroleum Terminals
  - H1926 Immingham Railfreight Terminals
  - H3245 Edward Nicholson
  - H3549 Associated British Ports
  - H3901 Arkema Coatings Resins
  - H4144 Origin UK Operations
  - H4280 ABP (Hydro) Terminal

4. The Applicant should make contact with the above site operators, to inform an assessment of whether or not the proposed development is vulnerable to a possible major accident.
5. The major accident hazard pipeline is operated by Cadent Gas Thornton Curtis/Ciba Geigy HSE ref 7022 Transco ref 1293.
6. The Applicant should contact the above pipeline operator, to inform an assessment of whether the proposed development is vulnerable to a possible major accident. There are three particular reasons for this:
  - a. The pipeline operator may have a legal interest in developments in the vicinity of the pipeline. This may restrict developments within a certain proximity of the pipeline.
  - b. The standards to which the pipeline is designed and operated may restrict major traffic routes within a certain proximity of the pipeline. Consequently, there may be a need for the operator to modify the pipeline or its operation if the development proceeds.
  - c. To establish the necessary measures required to alter/upgrade the pipeline to appropriate standards.
7. HSE's Land Use Planning advice is dependent on the location of areas where people may be present in relation to the consultation zones. Please note that the advice is based on HSE's existing policy for providing land-use planning advice [<https://www.hse.gov.uk/landuseplanning/methodology.htm>]. HSE's advice in response to a subsequent planning application may differ should HSE's policy or the scope of the development change by the time the Development Consent Order application is submitted. Given the nature of the site, it is a workplace and no members of the public will be present, so it appears to be a sensitivity level 1, a normal working population present on-site. It is unlikely that HSE would advise against the development.
8. Given the nature of the proposal, the site will need to consider all the major hazards associated with its proposed operations including both the impact on the surrounding hazardous Installations and how these installations may impact on the major accident hazards arising from the site's operations. The site would likely need to be included in a domino group of sites.

#### **Would Hazardous Substance Consent be needed?**

9. The HSE highlights that hazardous substances consent ['HSC'] is required to store or use any of the Categories of Substances or Named Hazardous Substances set out in Schedule 1 of [The Planning \(Hazardous Substances\) Regulations 2015](#) as amended, if those hazardous substances will be present on, over or under the land at or above the controlled quantities. Also, there is an "addition rule" in Part 4 of Schedule 1 for below-threshold substances. Further information on HSC should be sought from the relevant Hazardous Substances Authority (often the local planning authority).
10. Hazardous substance consent is required for this site and HSE can confirm that it has received an application, in its capacity as a statutory consultee, for hazardous substances consent from North East Lincolnshire Council under their reference [DM/0088/23/HS](#). Consent is required for 65,000 tonnes of refrigerated anhydrous ammonia and 270 tonnes of hydrogen. After amendment by the applicant HSE confirmed on 22nd November 2023 that the application has the minimum information to be able to proceed with the public safety risk assessment for this application when an inspector becomes available. HSE therefore concludes that hazardous substances consent is required and in the draft DCO there are no provisions to impact on this.

11. HSE operates a queuing system to manage the workflow associated with its role as a statutory consultee and currently expects to initiate work on the assessment in February 2024. HSE's website for hazardous substance consents provides guidance on when HSE delivers its statutory advice, which can take 6 to 12 months.
12. When HSE delivers its statutory advice to North East Lincolnshire council, the council will decide whether to grant or not the hazardous substances consent.
13. The applicant has made HSE aware of a provision in the draft DCO to give powers to compulsory purchase or acquire properties close to the site. This is because, the applicant is aware that HSE can advise against the granting of consent if, under HSE's technical policy there are reasons to advise against it on the basis of public safety (such as too many houses in a specific consultation zone). Therefore, the applicant will require these powers to purchase any properties that give rise to an incompatibility in terms of HSE's public safety advice to the planning system. However, until HSE delivers its advice and accompanying land-use planning consultation zones (sometimes called a 3-zone map), it is **not** possible to say which properties may be impacted.
14. Other health and safety matters are dealt with under other health and safety legislation; this is described in Advice Note 11 Annex G under 'Risk assessments'. There are no additional requirements for any risk assessments submitted to and approved by the relevant planning authority to also be considered by HSE. Therefore, HSE would not expect the DCO to include additional matters relating to health and safety. Note that, based on current proposals, this site will become an upper-tier site under [The Control of Major Accident Hazards Regulations 2015](#). HSE would expect that these regulations would apply in full and nothing in the DCO would impact on this legislation.

### Consideration of Risk Assessments

15. [Regulation 5\(4\)](#) of the [Infrastructure Planning \(Environmental Impact Assessment\) Regulations 2017](#) requires the assessment of significant effects to include, where relevant, the expected significant effects arising from the proposed development's vulnerability to major accidents. HSE's role in NSIPs is summarised in [Annex G](#). Annex G includes consideration of risk assessments under the heading "Risk assessments".
16. [Chapter 18](#) of Volume II of the Preliminary Environment Information Report ['PEIR'] December 2022 recognises that the site is within scope of The Control of Major Accident Hazards Regulations 2015 (the COMAH 2015 Regulations). Further it recognises that detailed risk assessments will be required. However, it is not clear from the NSIP application if there was consideration of risk assessments arising from the development's vulnerability to major accidents. We would advise this is considered further in line with Advice Note 11 Annex on the Planning Inspectorate's website - Annex G – The Health and Safety Executive taking account of the following: ***"it may be beneficial for applicants to undertake a risk assessment as early as possible to satisfy themselves that their design and operation will meet the requirements of relevant health and safety legislation as design of the Proposed Development progresses."*** This may be important as any change in design required as a result of the risk assessment process may materially change the planning application (e.g. change in scale of a unit operations such as increased height).
17. There are no additional requirements for any risk assessments submitted to and approved by the relevant planning authority to also be considered by HSE during the NSIP examination. HSE would not expect the DCO to include additional matters relating to health and safety.

## **Introduction to COMAH**

18. Operators of sites which have Major Accident Potential have duties under the Health and Safety at Work etc Act 1974 (HSWA) to reduce risks to both employees and the public, including ensuring that risks are properly managed. Some sites are within the scope of the Control of Major Accident Hazards Regulations 2015 (COMAH). COMAH Operators must comply with the general duties and responsibilities set out in HSWA and the additional duties set out in COMAH. Under COMAH, operators are required to take all necessary measures to prevent major accidents involving dangerous substances and limit the consequences to people and the environment of any major accidents which do occur.
19. Some of the additional duties for operators under COMAH include:
- a. notify the competent authority, of the basic details of the operation, such as the address of the establishment, site activities and the dangerous substances on site
  - b. prepare a major accident prevention policy (MAPP); and
  - c. develop a safety management system (SMS).
20. In addition, upper-tier operators must:
- a. prepare a safety report and update it every five years or following any significant changes or new knowledge about safety matters;
  - b. prepare and test an internal emergency plan for the site;
  - c. supply information to the local authority for external emergency planning purposes;
  - d. provide certain information to the public about the activities.

### **Explosives sites**

CEMHD 7's response is no comment to make in regards to this proposed development as it does not fall into the safeguarding zones of the nearby HSE explosive licenced site.

### **Electrical Safety**

No comment from a planning perspective.

During this time, please send any further communication on this project directly to the HSE's designated e-mail account for NSIP applications at [nsip.applications@hse.gov.uk](mailto:nsip.applications@hse.gov.uk) . We are currently unable to accept hard copies, as our offices have limited access.

Yours sincerely,

***Pp S Rance***

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