

## Tees CCPP Project

### The Tees Combined Cycle Power Plant Project Land at the Wilton International Site, Teesside

Written Summary of Applicant's Oral Case – Issue Specific  
Hearing on Environmental Matters – 13 June 2018

Examination Deadline 4

The Planning Act 2008



**Applicant:** Sembcorp Utilities (UK) Limited

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## GLOSSARY

<b>Abbreviation</b>	<b>Description</b>
Applicant	Sembcorp Utilities (UK) Limited
BAT	Best Available Techniques
CCR	Carbon Capture Readiness
CCS	Carbon Capture and Storage
CHP	Combined Heat and Power
DCO	Development Consent Order
EIA	Environmental Impact Assessment
EP	Environmental Permit
ES	Environmental Statement
ExA	Examining Authority
IAQM	Institute of Air Quality Management
ISH	Issue Specific Hearing
ISO	the 'Project' or 'Proposed Development'
LAQM	Local Air Quality Management
LIR	Local Impact Report
LVIA	Landscape and Visual Impact Assessment
MoD	Ministry of Defence
MW	Megawatts
NSIP	Nationally Significant Infrastructure Project
PA 2008	Planning Act 2008
PEIR	Preliminary Environmental Impact Report
PHE	Public Health England
PINS	Planning Inspectorate

<b>Abbreviation</b>	<b>Description</b>
RCBC	Redcar and Cleveland Borough Council
SCU	Sembcorp Utilities (UK) Limited
SoS	Secretary of State
The Proposed Development	The Tees CCPP Project
the Site	The Project Site
WFD	Water Framework Directive

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## 1 INTRODUCTION

### Overview

- 1.1 This Written Summary of Oral Case has been prepared on behalf of Sembcorp Utilities (UK) Limited ('SCU' or the 'Applicant') in respect of its application (the 'Application') for a Development Consent Order (a 'DCO'). The Application was accepted for examination (the 'Examination') by the Secretary of State (the 'SoS') for Business, Energy and Industrial Strategy on 18 December 2017.
- 1.2 SCU is seeking a DCO for the construction, operation and maintenance of a new gas-fired electricity generating station with a nominal net electrical output capacity of up to 1,700 megawatts ('MW') at ISO conditions (the 'Project' or 'Proposed Development'), on the site of the former Teesside Power Station, which forms part of the Wilton International Site, Teesside.
- 1.3 A DCO is required for the Proposed Development as it falls within the definition and thresholds for a 'Nationally Significant Infrastructure Project' (a 'NSIP') under Sections 14 and 15(2) of the Planning Act 2008 ('PA 2008').
- 1.4 The DCO, if made by the SoS, would be known as the 'Tees Combined Cycle Power Plant Order' (the 'Order').

### SCU

- 1.5 SCU provides vital utilities and services to major international process industry customers on the Wilton International site on Teesside. Part of Sembcorp Industries, a Singapore-based group providing energy, water and marine services globally, Sembcorp Utilities UK also owns some of the industrial development land on the near 810 hectares (2,000 acre) site which is marketed to energy intensive industries worldwide.
- 1.6 SCU owns the land required for the Proposed Development.

### The Project Site

- 1.7 The Project Site (the 'Site') is on the south west side of the Wilton International Site, adjacent to the A1053. The Site lies entirely within the administrative area of Redcar and Cleveland Borough Council (RCBC) which is a unitary authority.
- 1.8 Historically the Site accommodated a 1,875 MW Combined Cycle Gas Turbine power station (the former Teesside Power Station) with the ability to generate steam for utilisation within the wider Wilton International site. The Teesside Power Station ceased generation in 2013 and was demolished between 2013 and 2015.
- 1.9 SCU has identified the Site, based on its historical land use and the availability of natural gas supply and electricity grid connections and utilities as a suitable location for the Project. In summary, the benefits of the Site include:
  - brownfield land that has previously been used for power generation;
  - on-site gas connection, supplied from existing National Grid Gas Plc infrastructure;
  - on-site electrical connection, utilising existing National Grid Electricity Transmission infrastructure;
  - existing internal access roads connecting to a robust public road network;
  - availability of a cooling water supply using an existing contracted supply (from the Wilton Site mains) and existing permitted discharge consent for effluent to the site drainage system
  - screening provided by an existing southern noise control wall, approximately 6 m in height;
  - potential for future combined heat and power ('CHP') and carbon capture and storage ('CCS'); and

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- existing services, including drainage.

1.10 A more detailed description of the Site is provided at Chapter 3 ‘Description of the Site’ of the Environmental Statement (‘ES’) Volume 1 (Application Document Ref. 6.2.3).

### The Proposed Development

1.11 The main components of the Proposed Development are summarised below:

- **Work No. 1** – a natural gas fired electricity generating station located on land within the Wilton International site, Teesside, which includes the site of a former CCGT power station, with a nominal net electrical output capacity of up to 1,700 MWe at ISO Conditions; and
- **Work No. 2** – associated development comprising within the meaning of section 115(2) of the 2008 Act in connection with the nationally significant infrastructure project referred to in Work No. 1.

1.12 Please refer to Schedule 1 of the Draft DCO (Application Document Ref. 2.1) for more detail.

1.13 It is anticipated that subject to the DCO having been made by the SoS (and a final investment decision by SCU), construction work on the Project would commence in around the second half of 2019. The construction of the Project could proceed under one of two scenarios, based on SCU’s financial modelling, as follows.

- **‘Scenario One’**: two CCGT ‘trains’ of up to 850 MW are built in a single phase of construction to give a total capacity of up to 1,700 MW.
- **‘Scenario Two’**: one CCGT train of up to 850 MW is built and commissioned. Within an estimated five years of its commercial operation the construction of a further CCGT train of up to 850 MWe commences.

1.14 The above scenarios have been fully assessed within the ES.

1.15 A more detailed description of the Project is provided at Schedule 1 ‘Authorised Development’ of the draft DCO (Application Document Ref. 2.1) and Chapter 5 ‘Project Description’ of the ES Volume I (Application Document Ref. 6.2.5).

### The purpose and structure of this document

1.16 This document provides a written summary of the Applicant’s oral case at the Issue Specific Hearing (‘ISH’) on Environmental Matters held on 13 June 2018. This document has been submitted for Deadline 4 of the Examination (6 July 2018).

## 2 WRITTEN SUMMARY OF APPLICANT'S ORAL CASE

### Introductory remarks

- 2.1 The ISH on Environmental Matters was held on 13 June 2018 at Redcar and Cleveland House, Kirkleatham Street, Redcar, TS10 1RT.
- 2.2 The ISH concerns environmental matters relating to the Application for the construction, operation and maintenance of a the Proposed Development, on the site of the former Teesside Power Station, which forms part of the Wilton International Site, Teesside.
- 2.3 The ISH took the form of running through the Examining Authority's ('ExA') agenda and specific questions published on 06 June 2018.

### Introduction of participating parties

- 2.4 The ExA, Mr David Richards.
- 2.5 The Applicant:
- Claire Brook ('CB'); Partner at Womble Bond Dickenson;
  - Kate Ashworth ('KA'), Associate Womble Bond Dickenson;
  - Carole Nichols ('CN'), Utilities Shift Manager, SCU;
  - Scott Taylor ('ST'), AVP Business Development, SCU;
  - Kevin Murphy ('KM'), Partner, ERM;
  - Chris Hazel Marshall ('CHM'), Air Quality Specialist, ERM;
  - Georgia Sweeney ('GS'), EIA Coordinator, ERM;
  - Jake Barnes-Gott ('JBG'), Senior Associate, DWD LLP; and
  - Rob Booth ('RB'), Senior Planner, DWD LLP.
- 2.6 The following Interested Parties participated in the ISH:
- Louise Tate ('LT'), representing the Environment Agency ('EA');
  - Chloe Harvey-Walker ('CHW'), representing the EA; and
  - David Pedlow ('DP'), representing Redcar and Cleveland Borough Council (the 'Council').

### Main discussion points

- 2.7 The relevant section from the hearing agenda issued by the ExA on 06 June 2018 is quoted when dealing with the environmental matters in the remainder of this section. The main discussion points were primarily from the ExA's agenda.

#### Agenda Section 1: Introduction an opening remarks

- 2.8 The ExA provided an overview of the agenda, including each specific section and relevant environmental matters.
- 2.9 The ExA set out the parties who had responded to first set of written questions, the revised DCO and explanatory memorandum, and administrative issues encountered by the Planning Inspectorate ('PINS') in uploading some of the Deadline 2 documents to the PINS website, including the draft DCO [REP2-085].

#### Agenda Section 2: Introduction of participants

- 2.10 See sections 2.4 to 2.6 above.
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**Agenda Section 3 – Implications and materiality of Applicant’s proposed change – increase in maximum height of the Turbine Hall and Heat Recovery Steam Generator**

- 2.11 The ExA contextualised the requested non-material change and requested an update from CB on the Applicant’s consultation.
- 2.12 CB confirmed SCU’s consultation as mirroring that for a material change as set out in Advice Note 6 and summarised the consultation methods employed, including notices in newspapers and approaching all section 42, 43, 44 and 47 parties for comment.
- 2.13 JBG confirmed that SCU intends to submit a consultation report ahead of Deadline 4, to set out the scope of the consultation exercise and all the responses received.
- 2.14 JBG confirmed and summarised responses from Cleveland Fire Brigade, Loftus Town Council, Public Health England (‘PHE’), the Health and Safety Executive (‘HSE’), the Ministry of Defence (‘MoD’), Northumbrian Water and a member of the local community.

***Air quality***

- 2.15 The ExA summarised the Applicant’s proposed change, noting changes in heights proposed for the turbine hall (25m to 32m) and HRSG (44m to 45m). The ExA noted the Applicant’s position that the proposed increase in heights would not materially alter the air quality modelling results as set out in the Environmental Statement (‘ES’).
- 2.16 CHM confirmed that this is the Applicant’s position.
- 2.17 The ExA queried why the results remain the same.
- 2.18 CHM confirmed that the Applicant undertook two assessments, one at the PEIR and one at the EIA stage using different building heights. The results of the modelling remained unchanged (to three significant figures) as between the PEIR and ES; illustrating the negligible effect the building structures have on plume downwash.
- 2.19 The ExA asked if this would remain the same if the stack height were to be lowered.
- 2.20 CHM stated that lowering the stack would increase downwash, but at the current 75m height downwash effect is negligible. Substantially lowering the stack height to heights comparable with the tallest building could mean the plume would then interact with the buildings on the Site and downwash effects would be observed.
- 2.21 The ExA asked if CHM could comment on what the effect on deposition would be if the stack height was lowered to 45m.
- 2.22 CHM confirmed that a significant reduction in stack height may have a significant effect, particularly in regards to the maximum concentrations experienced; however, a full modelling study would be required to reach a more definitive conclusion on whether the stack could be lowered to less than 75m.
- 2.23 The ExA referred to Natural England Rep: 3008: *“the proposed changes will not significantly alter the model dispersal areas for the emissions for the development and do not affect the conclusions of the HRA.”*
- 2.24 The ExA stated that the main statutory consultees have no objection to the proposed change.
- 2.25 CHM confirmed the Applicant has nothing further to add on air quality.

***Noise***

- 2.26 The ExA summarised the Applicant’s position that the proposed change would not result in any significant noise impacts. The ExA noted the mitigation measures such as site layout, enclosures and acoustic cladding and the Applicant’s conclusion of this not resulting in a noise effects that are different from those predicted in the ES.
- 2.27 KM confirmed the ExA’s statement as a fair summary of the Applicant’s position.
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- 2.28 The ExA noted that the scope of the noise mitigation measures would be agreed through a requirement in the DCO.
- 2.29 The ExA referred to EA Rep: 3012 submitted at Deadline 3, stating that the alterations of the building heights has the potential to channel noise to new sensitive receptors and confirmed, therefore the EA will undertake an assessment of preferred noise abatement measures as part of the Environmental Permit ('EP') determination.
- 2.30 CHW stated that the EA does not want to predetermine the permit and will assess the Applicant's noise model at the permitting stage and condition appropriately.
- 2.31 The ExA asked DP for RCBC's position on Local Impact Report ('LIR') and SoCG and whether they have been amended to take account of the proposed change.
- 2.32 DP stated that the Council has not commented formally, but are in talks with the Applicant to update the SoCG with regard to the change. DP also confirmed that the Council have no adverse comments on the proposed change.
- 2.33 DP stated that the SoCG between themselves and the Applicant is anticipated to be signed off on or before Deadline 4.
- 2.34 DP confirmed that the Council will not object on the basis of noise and the SoCG captures the complete position of both parties and therefore does not envisage that an update to the LIR is necessary. The ExA asked for a formal response from the Council in some form.
- 2.35 DP stated that the Council will seek to submit or agree a supplementary response with the SoCG regarding the proposed change.

***Landscape and visual***

- 2.36 The ExA summarised the Applicant's position regarding the original LVIA [APP-053] and the revised photomontages [AS-021] which had been prepared to illustrate the changes. The conclusion being that the visual impacts remain unchanged from the ES.
- 2.37 KM confirmed that, as can be seen within the photomontages, the magnitude of impacts at the viewpoints ranges from negligible to medium and the significance of effects from not significant to minor. As can be seen in the photomontages, whilst there is a perceptible difference in the visibility of portions of the building structures (together with a reduction in prominence of the stacks) from the ES photomontages, the overall change is not sufficient to lead to an increase in the rating of the impact magnitude which is still largely dictated by the visibility of the stacks as the tallest structures visible from all viewpoints.
- 2.38 KM stated that the original LVIA results were based on a 90m stack and the building structures at 23m for the gas turbine and 44m for the HRSG, whereas for the requested change a stack of 75m was used as well as revised heights for the buildings. Therefore, the original conclusions were based on a larger stack height figure, thereby leading to no material change in the new assessment.
- 2.39 The ExA queried the materiality of the increase in height (33%) and asked for the Applicant to comment on this.
- 2.40 KM stated that it is the Applicant's view that the increase in building heights does not alter the conclusions of the LVIA, on the basis that it was based on a 90m stack worst case scenario.
- 2.41 CB stated that the context of the Site should also be taken into consideration, including its industrial nature and the presence of much larger structures.
- 2.42 ExA confirmed that he will review and determine the materiality aspect.

***Cultural heritage***

- 2.43 ExA summarised the Applicant's position, in that the landscape and visual assessment of the requested change does not alter the magnitude of impact or significance of effects at any viewpoint or cultural heritage asset, including Eston Nab.
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2.44 The ExA reiterated that Historic England have made no comments on the proposed change; however, the Council's cultural heritage advisors should be consulted if there is anything further on this matter.

2.45 DP confirmed that it his understanding that there is no objection from RCBC on cultural heritage, citing the conclusions of the LIR but confirmed that the Council would put this in writing.

#### *Human health*

2.46 ExA summarised the Applicant's position in that the conclusions within the health assessment of the ES [APP-056] also remain unchanged.

2.47 The ExA confirmed that PHE has made no specific comments on the proposed change.

2.48 LT confirmed that the EA has no further comments and were happy with the requested change.

#### Agenda Section 4: Issues arising from the responses to the ExA's Written Questions (WQs) [PD-008] on Environmental Issues

##### *Air quality and emissions*

##### Stack height and diameter, including sensitivity testing

2.49 The ExA introduced the subject and queried whether the stack height could be fixed at 75m and, if not, whether it might be lower than 75m?

2.50 CB confirmed that the Applicant wants to retain the ability to seek a reduction to the stack height below 75m, hence why the DCO [REP2-085] is drafted to allow this. In order to ensure that this does not result in adverse effects to ecological or human receptors, the stack height will be assessed further at the permitting stage. The environmental permit would not be granted unless the Applicant could demonstrate that the stack height is acceptable in terms of effects on ecology and human receptors.

2.51 CHM confirmed that 75m has been taken forward as the optimum stack height based on the knowledge that negligible impacts on sensitive human and ecological receptors would occur. However, that this is not to say that a lower stack height is not possible, but that it would require further assessment.

2.52 CB confirmed that the wording in the draft DCO [REP2-085] is intended to preserve the flexibility to lower the stack and that if a lower stack height was selected, pursuant to the Habitats Regulations, the EA would conduct screening and, if necessary, carry out an Appropriate Assessment at the permitting stage.

2.53 CHM confirmed that the stack, turbine and plant is designed to meet the future Best Available Techniques ('BAT'). CHM confirmed that 65m is likely to be the lowest feasible height.

2.54 The ExA queried why a maximum diameter to the stack could not be applied in the DCO, potentially of 8m with a flexibility of plus or minus 0.5m. There was a discussion about monitoring stack emissions with the EA. The ExA concluded that there must be a monitoring solution if an 8m stack diameter is itself acceptable.

2.55 CHM confirmed that the final diameter will not be known until a turbine has been selected. Furthermore, that there would only be small variations in the stack diameter but these will be confirmed when the manufacturer is confirmed and would be fixed in the permit.

##### Presentation of PEC / CL and PC's

2.56 The ExA summarised the subject.

2.57 The ExA noted that full air quality modelling data relating to air quality impacts at protected areas had not been provided in the ES. CHM confirmed this data can be provided if required and that the raw data had been included in the ES by summarising it due to the size of the data files.

2.58 The ExA requested that the ES Annex G tables G1.4 to G1.7 [APP-073] are updated, and that the full raw data spreadsheets are submitted also.

2.59 CHW stated that the EA would also like to see the raw data to run it through their model.

2.60 CHM agreed to provide the data.

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Implications of alternative siting within Rochdale Envelope

- 2.61 The ExA summarised the subject, including the ability to have flexible stack locations.
- 2.62 CB confirmed the location of the stacks was largely fixed based on the tight limits of deviation on the Works Plan. The lateral deviation is not anticipated to be greater than 20m from the position assumed in the air quality assessment. Importantly, this will not have a material effect on the outcome of the assessment.
- 2.63 ST confirmed that SCU require the allowance for lateral movement owing to considerations such as foundation piling at the Site, which subject to geotechnical surveys could require the repositioning of the final stack location. In light of this, the flexibility is necessary.
- 2.64 CHW confirmed that the location of the stack would be confirmed at the permitting stage. He also stated that the configuration and location of the stack would depend on the turbine design and so flexibility is required.

Significance of predicted ‘moderate’ impacts for NO<sub>2</sub> concentrations (WQ 1.1.15)

- 2.65 The ExA summarised SCU’s position, stating that the moderate impacts arise over a relatively small area and an area where there are few or no sensitive receptors, and the existing baseline is well below air quality standards. The latter meaning that the PEC does not exceed 50% of the air quality standard.
- 2.66 CHM confirmed that there are no areas where there are moderate impacts are predicted and where the predicted environmental concentration will exceed the critical limits for NO<sub>2</sub>. CHM also reiterated that the PEC does not exceed 50% and as such no adverse impact is predicted.
- 2.67 CB confirmed that the location of the moderate impact will be provided to the ExA at Deadline 4.

CEMP measures to control dust

- 2.68 The ExA summarised SCU’s response from Deadline 2 (response to WQ 1.1.18), including in respect of Requirement 13 and dust mitigation measures. The ExA confirmed that his concerns had been resolved by the amendments to the CEMP and the DCO.
- 2.69 CHW confirmed he had nothing to add.

Reliance on permitting and Local Air Quality Management (‘LAQM’) regimes to deliver air quality monitoring.

- 2.70 The ExA referred to the Applicant’s response to WQ1.1.19. The ExA asked RCBC if it is content to leave air quality issues/monitoring to the permit without any need for a requirement in the DCO [REP2-085].
- 2.71 DP confirmed that RCBC are in agreement with this, and are prepared to add this to the SoCG with the Applicant.
- 2.72 CB confirmed SCU’s request to delete the word ‘ambient’ from Work No.1A of draft DCO [REP2-085] for the Deadline 4 submission.

Best Available Techniques

- 2.73 The ExA confirmed that this has already been discussed earlier with regard to stack heights.
- 2.74 CHM confirmed he had nothing more to add.

***Biodiversity, ecology and natural environment (including Habitats Regulations Assessment)***Exceedances of nitrogen depositions at European sites

- 2.75 The ExA opened with reference to the exceedance of critical limits at seven habitat locations and whether it is suitable to rely on the 1% threshold of the critical load.
- 2.76 CHM stated that the 1% critical load threshold is standard practice, and that regarding the seven locations of exceedance, CHM confirmed that this is not unusual, on the basis that a large amount of habitat sites across the UK experience baseline levels above the critical load.
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- 2.77 CHM stated with regard to in combination assessment, that UK air quality has generally been improving in the long term, with substantial improvements since the 1960's-1980's, in sulphur dioxide, oxides of nitrogen and transboundary pollution. This trend is generally continuing with ever-tighter regulation on industrial emissions driving down impacts from existing facilities. CHM noted that in the context of an additional source of pollution under the 1% threshold against the backdrop of improving air quality overall, it can be concluded that significant in-combination effects are unlikely to arise despite the baseline being above the critical load.
- 2.78 The ExA asked if there is any better baseline information available.
- 2.79 CHM confirmed that the baseline information used in the ES is derived from the Air Pollution Information Database which is arguably an outdated source as it is only updated periodically, with some sources such as Ferrybridge (coal-fired power station in West Yorkshire) still listed despite not being an active pollutant source any longer. It is however the best baseline available and is widely used.
- 2.80 The ExA asked if it would be possible to do a quantitative 'in-combination analysis' for dispersion modelling.
- 2.81 CHM confirmed it is not reasonably practical given the number of potential facilities and changes to facilities.
- 2.82 CHW of the EA stated that she is satisfied by comments from CHM and the use of the 1% methodology and list of sites considered in the in-combination analysis.

Revisions to legislation – Conservation of Habitats and Species Regulations 2017

- 2.83 The ExA summarised the issue, asking the Applicant to confirm if there have been any changes to the legislation which would affect the conclusions of the HRA report.
- 2.84 CB confirmed that the HRA was undertaken in line with the Conservation of Habitats and Species Regulations 2017.
- 2.85 CB stated that there have been no material amendments to the contents of the Regulations and no changes to requirements.
- CJEU Judgement – C-323/7 – People Over Wind, Peter Sweetman V Coillte Teoranta (2018)
- 2.86 CB confirmed that the Applicant does not believe that the judgement affects the HRA screening exercise carried out by the Applicant, on the basis that no mitigation measures have been relied upon.
- 2.87 CB referred to paragraph H1.45 HRA [REP1-001], which confirms explicitly that no mitigation has been relied upon.
- 2.88 CB referenced ES Chapter 7 paragraph 7.126 [APP-049] which explicitly states that no further mitigation measures were required over and above the base design, these being the use of a turbine that meets future BAT NOx emissions of 30 mg/Nm<sup>3</sup> and an appropriate stack height to ensure sufficient dispersion.

Historic Environment

- 2.89 The ExA confirmed there was nothing further to add on historic environment.

***Infrastructure***

Carbon Capture Readiness ('CCR') – ability to secure delivery of additional land if needed (issues arising from Environment Agency (EA) written representations – [REP2-032 and REP2-058]). Implications for findings of ES assessments.

- 2.90 The ExA confirmed the Applicant's intention to commission a report to review the carbon capture proposals in light of the EA's comments.
- 2.91 The ExA raised the query of whether there is enough space on the Site.
- 2.92 ST confirmed the work/assessment of the CCR is ongoing to look at the carbon capture requirements and produce a corresponding plant layout.
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2.93 CB stated there was significant additional land within SCU's control which could be provided if necessary – using a section 106 agreement to secure any land outside of the Order limits.

Combined Heat and Power ('CHP') readiness

2.94 The ExA referred to the EA Representation 2-032 [REP2-032] – opportunities for the supply of heat and engagement with South Tees District Heating Project ('STDHP').

2.95 ST confirmed the Applicant is trying to attract energy intensive users onto the Wilton International Site. Furthermore, that the Applicant is centrally involved in the STDHP. ST also confirmed that the steam capacity available on site exceeds demand by a considerable margin.

2.96 The EA confirmed that the permit would require a CHP review every 4 years.

*Landscape and visual effects*

2.97 KM confirmed that the viewpoints and used in the landscape and visual impact assessment [APP-053] are representative of the key viewpoints into the Site, on this basis they are robust.

2.98 The ExA asked whether a requirement could be added to specify measure that might needed to be take to minimise visual impact from external lighting.

2.99 CB confirmed that the Applicant would be open to reviewing Requirement 5 in that respect.

2.100 KM stated that the appropriate guidance will be applied when designing lighting, to void spillage etc.

***Noise and Vibration***

Construction and operation under 'Scenario 2'

2.101 The ExA referred to the Applicant's response at Deadline 2 to Q1.9.14 [REP2-080], with regard to the background noise from the construction of the second train and the possibility of assessing this in the context of the operational noise of the first train.

2.102 KM clarified that the Applicant has assessed all construction noise against the most stringent criteria in BS5228 and the current background noise levels. An assessment of construction activity against the slightly higher background noise of one train operating would be a less stringent approach than adopted in the ES.

2.103 DP of RCBC confirmed he is satisfied with this position.

Construction Noise Limits

2.104 The ExA referred the Applicant's response to Q1.9.19 [REP2-080] and questioned how compliance with BS5228 would be monitored and enforced.

2.105 KM stated that the CEMP will have provision for a monitoring programme through the construction phase and there will also be communication mechanisms in place allowing people to make complaints. KM also confirmed that the construction activities have been assessed against the most stringent criteria set out in BS5228 for daytime, evening and weekends, and the Applicant is comfortable that the activities on Site are not going to exceed these levels at the nearest sensitive receptors.

2.106

2.107 The ExA questioned if any wording could be adopted from BS5228 and incorporated into the CEMP.

2.108 KM confirmed that the Applicant will consider this and submit a revised CEMP at Deadline 4 if necessary.

Verification of the efficiency of acoustic walls

2.109 The ExA confirmed the Applicant's reference to Requirement 19 in the revised DCO as covering the matter and asked DP to confirm if RCBC is satisfied with this response.

2.110 DP confirmed that RCBC is satisfied with the Applicant's response and that verification is adequately secured. DP agreed to double check the position with his noise team.

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Mitigation relating to out-of-hours working/abnormal or emergency construction traffic (WQ 1.9.19)

- 2.111 The ExA raised the question regarding FWQ 1.9.19 as to whether more specifics can be included within the CEMP in relation to out of hours or emergency working.
- 2.112 KM outlined the difference between potential foreseeable and unforeseeable out-of-hours construction activities and traffic. Foreseeable out of hours activities such as extended concrete pours would be notified to the council and local communities in advance and be subject to noise mitigation measures set out in the CEMP. Unforeseeable activities such as emergency works would be subject to best endeavours in terms of noise mitigation, within any constraints dictated by the need to protect the safety of the local community and the project workforce.
- 2.113 The ExA requested that this differentiation is worked into the proposed mitigation measures.

*Transportation and Traffic*

- 2.114 The ExA noted that Requirement 15 of the draft DCO [REP2-085] refers to the ‘Construction Traffic Management Plan’ as opposed to the ‘Construction Transport Management Plan’.
- 2.115 CB confirmed that this text will be reviewed and corrected as necessary in the draft DCO.

*Water Environment*

- 2.116 The ExA referred to the potential for impacts on the Tees Estuary and whether there is a requirement for enhancement measures.
- 2.117 LT confirmed that any discharge of liquid effluent should be compliant with the permit, any further discharge will be reviewed at the permitting stage.
- 2.118 LT referred to colleague Graham Hull’s (‘GH’) comments on the hydro-morphological conditions of watercourses in the area. LT outlined GH’s comments with regard to the requirements of the Water Framework Directive (‘WFD’), stating that while it appears unlikely that the Proposed Development would either lead to a deterioration in the condition of the water body or prevent the implementation of measures in the river basin management plan, it is not considered clear if the Applicant has assessed the potential for other practical opportunities to improve the water bodies as part of the Proposed Development.
- 2.119 CB stated that the Applicant will seek to respond to the points raised on enhancement measures as necessary, with potential to cover off the Water Framework Directive in the SoCG.

*Environmental Permit*

- 2.120 The ExA confirmed his understanding that the permitting process will not be commenced during the course of the Examination.

*Update on Statements of Common Ground*

- 2.121 JBG confirmed that at Deadline 2 SCU submitted eight SoCGs, and that currently the following are signed and agreed with no matters outstanding:
- Tees Valley Wildlife Trust;
  - Natural England;
  - National Grid; and
  - Civil Aviation Authority.
- 2.122 JBG confirmed that at Deadline 2 the RCBC SoCG had not been reviewed or commented on by the Council; however, that since then RCBC has indicated that it would be happy to sign the SoCG and agree to all matters. The Applicant has recently added reference in this SoCG to the non-material change to the DCO – to the effect that the change is considered to be non-material and there will be no new significant or different environmental impacts – which today RCBC indicated it would also be satisfied with the inclusion of in the document.
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- 2.123 JBG confirmed the EA SoCG is still pending discussions on CCR and the water environment. It is not anticipated that it will be signed off by Deadline 4.
- 2.124 JBG stated that the Highways England SoCG was still awaiting review and comment; however, that no issues are anticipated.
- 2.125 JBG stated that Historic England has confirmed that it does not believe a SoCG is necessary and that any further matters of cultural heritage should be referred to RCBC.

**Closing of the hearing**

- 2.126 The ExA confirmed that Deadline 4 is 6 July.
- 2.127 CB confirmed that the report on the consultation for the proposed non-material change would be submitted prior to Deadline 4.
- 2.128 CB confirmed that SCU is happy to submit a revised version of the draft DCO for Deadline 4.
- 2.129 The ExA queried whether the Applicant and participants were happy that the agenda has been adequately covered. All participants confirmed that there were no further comments to be made.
- 2.130 The ExA closed the hearing at 1:17pm