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Net Zero Teesside Power Limited and
Net Zero North Sea Storage Limited
c/o Mr Geoff Bullock
Partner
DWD
6 New Bridge Street
London EC4V 6AB

Our Ref: EN010103

Date: 24 February 2022

Dear Sir/ Madam

The Planning Act 2008 – Section 89

Application by Net Zero Teesside Power Limited and Net Zero North Sea Storage Limited for an Order Granting Development Consent for the Net Zero Teesside Project.

Notice by the Applicants of Intention to Submit a Request to Make Changes to the Application

Thank you for your letter dated 18 February 2022 giving notice of the intention of Net Zero Teesside Power Limited and Net Zero North Sea Storage Limited (the Applicants) to submit a request to make changes to the Net Zero Teesside (NZN) Project DCO Application. This has been published on the National Infrastructure Planning website [here](#).

Your letter of 18 February 2022 [AS-043] states that the Applicants consider that the proposed changes to the DCO Application, taken together, may be material and are therefore notifying the Examining Authority (ExA) of their intention to formally request a change to the Application and are seeking advice from the ExA on the procedural implications. The letter is accompanied by a document 'Notification of Proposed Changes to the NZN DCO Application' [AS-044].

Together the above documents outline the proposed changes to the DCO Application and provide further detail regarding the changes proposed to the original NZN Project. The Notification of Proposed Changes document also states that as the proposed changes may be considered material by the ExA, the Applicants intend to carry out non-statutory consultation prior to making the formal change request. The Applicants propose that non-statutory consultation on the changes and updated environmental information would commence during the week beginning 8 March, continuing until 14 April 2022. It is the Applicants' intention to make a formal change request to the ExA

by 28 April 2022 which will be accompanied by further information on the proposed changes, updated application documents and additional information as required.

The Notification of Proposed Changes document satisfies Step 1 of the recommended procedure in the Planning Inspectorate's 'Advice Note 16: How to request a change that might be material' (AN16). The advice which the Applicants are requesting from the ExA, in line with Step 2 of AN16 includes the procedural implications of the proposed changes and guidance on the need, scope and nature of the consultation that the Applicants propose to undertake.

Materiality of the Proposed Changes and Information Required

The changes relate primarily to the optionality included in the DCO Application, particularly around the connection corridors for the Project, and a reduction in land take (or a reduction in the powers sought over land), together with other minor changes or updates to the Project.

In accordance with both the Department for Communities and Local Government Guidance on Changes to Development Consent Orders (the DCLG Guidance) and AN16, it is ultimately for the ExA to decide whether a proposed change is material. Accordingly, the ExA does not, at this stage, have sufficient information to reach a conclusive view as to materiality partly because it has not been possible at this stage to determine whether the proposed changes will generate new or materially different environmental effects. However, from the information that you have presented thus far, the ExA is minded to agree with your view that together the changes would be likely to be material. Additionally, the ExA accepts that that the proposed changes, either individually or cumulatively, would not lead to the Project being different in nature or substance to that which was originally applied for in July 2021.

Your submission recognises that AN16 confirms that the issue of materiality is also based on whether (and if so the extent to which) a change request involves an extension to the Order Land, particularly where this would require additional compulsory acquisition powers. The ExA notes that the proposed changes primarily relate to reductions to the Order Limits (or a reduction in the powers sought over land) although a single minor extension to the existing Order Land is also proposed.

Your submission appropriately references AN16. Looking ahead, the Applicants should have regard to Figures 1 and 3 of AN16, which set out how to make a request to make a material change to an accepted application and the information to include in a request to make a material change to an application after it has been accepted for examination.

Consultation

The ExA is aware of your stated intention to carry out non-statutory consultation on all proposed changes with all those consulted pursuant to Section 56 of the Planning Act 2008. As identified, this should include any changes to the Section 56 notification list since August 2021. You should give a minimum of 28 days for responses to your consultation, and newspaper and site notices should be posted. The ExA has no other comments to make on the indicative programme set out within section 6 of the Notification of Proposed Changes document.

When submitting the change request, it is recommended that you submit a statement encompassing a non-statutory consultation report setting out the detail and methodology of the undertaken consultation.

The scope of consultation activities set out in section 4.2 of the Notification of Proposed Changes document provides an appropriate basis for the non-statutory consultation. Please ensure that consultation responses are sent to you as the Applicant and not to the Planning Inspectorate.

Appendix A of the Notification of Proposed Changes document comprises plans showing the Order Limits updates and the location of changes. The ExA would advise that where this plan is reproduced in consultation documents that the numbers are larger and the locations/ boundaries which those numbers represent are clear. We would also advise that updated documents submitted with the formal change request should include both clean and tracked changes versions, (or where minor changes are made, a schedule of changes).

If the ExA decides to accept the proposed changes into the Examination (irrespective of whether or not they are material) all Interested Parties will have an opportunity to make representations on the changed application, in writing or orally at hearings, when the Examination commences.

Next steps

The Applicants are asked to ensure that the change request that is intended to be submitted by 28 April 2022 responds fully to the points made above taking account of the DCLG Guidance and AN16.

If you have any questions about any of the matters raised in this correspondence, please contact the Case Team using the details provided in this letter.

Yours faithfully

Kevin Gleeson

Lead Member of the Examining Authority