The Planning Inspectorate

Meeting note

Project name	The 'Net Zero Teesside Project'
File reference	EN010103
Status	**Final**
Author	The Planning Inspectorate
Date	19 April 2021
Meeting with	Net Zero Teesside Power Limited and Net Zero North Seas Storage Limited
Venue	Microsoft Teams
Meeting objectives	Project Update Meeting
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.

Project Update

The Applicant provided the Inspectorate with an update since the last project meeting held on 12 March 2021. The Applicant confirmed that it is still intending to submit the application to the Inspectorate in May 2021.

The Applicant explained the further consultation that has been undertaken since the last meeting and confirmed that it has submitted the required s46 notification to the Inspectorate in respect of the further s42 consultation with land interests regarding the application.

The Inspectorate sought clarification on the progress of bringing forward the Endurance Reserve and the level of dependency on it. The Applicant explained that the Environmental Impact Assessment (EIA) (relating to the offshore works) and storage development plan for Endurance are currently being compiled, with application submission and approval to align with the decision on the Development Consent Order (DCO) application. The Applicant confirmed that potential alternative future stores are close to the proposed Endurance Reserve, and that Endurance is part of the wider vision for future carbon capture storage.

The Inspectorate enquired about communication with other Carbon Capture Storage (CCS) schemes. The Applicant confirmed that the Carbon Capture Storage Association (CCSA) has facilitated key collaborations in helping to deploy CCS technologies through knowledge sharing between promoters of CCS schemes.

The Inspectorate enquired about the key issues which may arise in any Examination, should the application be accepted for Examination. The Applicant explained it believes that key Examination subjects may include:

- Land, due to the many land interactions associated with the Project;
- Air quality, linked to the first of its kind nature of the Project and the flexibility the Applicant is building into the design elements using the Rochdale Envelope;
- Interaction between onshore/marine elements including crossing of the River Tees;
- Habitats Regulations Assessment;
- Cumulative effects with other developments; and
- Connections between the gathering network and industrial emitters.

The Inspectorate queried whether there are any health and safety issues concerning the capture, transport and storage of carbon dioxide (CO_2). The Applicant confirmed that the Health and Safety Executive (HSE) have been consulted and that there is also HSE published guidance on the health and safety risks associated with CO_2, which is being followed as the detailed design progresses.

The Inspectorate enquired about the general nature of feedback from the consultation. The Applicant commented that that there had been no strong opposition or criticism against the Project from the public to date and that responses had generally been supportive.

The Netzero Teeside Project – EN010103

Section 51 Advice regarding draft Application documents submitted by [Net Zero Teeside Power Limited and Net Zero North Sea Storage Limited]

This advice relates solely to matters raised upon the Inspectorate's review of the draft application documents submitted by Net Zero Teeside Power Limited and Net Zero North Sea Limited ("the Applicant"), and not the merits of the proposal. The advice is limited by the time available for consideration and raised without prejudice to the acceptance or otherwise of the eventual application. It is provided to assist the preparation of the next iteration.

Abbreviations used

ANxx	Advice Note number	**EM**	Explanatory Memorandum	**The Inspectorate -**	Planning Inspectorate
Axx	Article and number	**ExA**	Examining Authority	**SoR**	Statement of Reasons
BoR	Book of Reference	**HRA**	Habitats Regulation Assessment	**SoS**	Secretary of State
dDCO	draft Development Consent Order	**PA2008**	Planning Act 2008		

General drafting points

1. The Applicant should ensure that when the draft development consent order (dDCO) is finalised for submission all internal references and legal footnotes are checked and that the drafting follows bests practice in AN13 and AN15 and any guidance on statutory instrument drafting.

2. A thorough justification should be provided in the Explanatory Memorandum (EM) for every Article and Requirement, explaining why the inclusion of the power is appropriate in the specific case. The extent of justification should be proportionate to the degree of novelty and/ or controversy in relation to the inclusion of that particular power.

3. Notwithstanding that drafting precedent has been set by previous DCOs, whether or not a particular provision in this DCO application is appropriate will be for the ExA to consider and examine taking account of the facts of this particular DCO application and having regard to any views expressed by the relevant authorities and interested parties.

Draft Development Consent Order			
Ref No.	**Article/Requirements (A/R)**	**Extract from DCO (for ease of reference)**	**Comment/Question**
1.	General		The DCO should be: • in the Statutory Instrument (SI) template • follow guidance and best practice for SI drafting (for example avoiding "shall/should") in accordance with the latest version of guidance from the Office of the Parliamentary Counsel • follow best practice drafting guidance from the Planning Inspectorate and the Departments in Advice Note 15 – *Drafting development consent orders* (and see specific references to Advice Note 15 below) • fully audited to ensure that that there are no inconsistencies within the DCO and its constituent parts such as definitions or expressions in the articles, requirements, protective provisions, other schedules and any book of reference and/or any deemed marine licence (including scope of works permitted – deemed marine licence should not permit works outside the scope of those permitted by the DCO itself), that all legislative references in the DCO are to extant provisions and all schedules refer to the correct articles. Also, definitions should be precise, accurate and relatively easily understandable. (e.g. if a definition is drafted in a way that obliges the reader to cross refer to wording in multiple other documents in order to understand the definition, then it is not easily understandable). Where any registered company is referred to in the DCO (or any deemed marine licence) it should be defined by using its full and precise company name and company registration number (as those appear on the register held by Companies House). • Kept under constant review by the applicant throughout any examination so that definitions are kept up to date by them as matters evolve – e.g. : any definition of 'environmental statement' in the context of how/the purposes for which it is referred to in the DCO; or how plans and drawings are defined (and where possible include drawing/revision numbers). In addition, where the Explanatory Note at the end of a draft DCO states that documents will be available for inspection at a third party location the applicant

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			should be asked to confirm in writing that the stated third party has agreed to that.
2.	General		Notwithstanding that drafting precedent has been set by previous DCOs or similar orders full justification should be provided for each power/provision taking account of the facts of this particular DCO application Where drafting precedents in previous made DCOs have been relied on, these should be checked to identify whether they have been subsequently refined or developed in the most recent DCOs so that the DCO provisions reflect the Secretary of State's current policy preferences. If any general provisions (other than works descriptions and other drafting bespoke to the facts of this particular application and DCO) actually differ in any way from corresponding provisions in the Secretary of State's most recent made DCOs, it would be preferable for an explanation to be provided as to how and why they differ (including but not limited to changes to statutory provisions made by or related to the Housing and Planning Act 2016)
3.	General		The purpose of and necessity for any provision which uses novel drafting, and which does not have precedent in a made DCO or similar statutory order should be explained in the Explanatory Memorandum. The Planning Act 2008 power on which any such provision is based should also be identified in the Explanatory Memorandum. The drafting should • be unambiguous • be precise • achieve what the applicant wants it to achieve • be consistent with any definitions or expressions in other provisions of the DCO • follow guidance and best practice for SI drafting referred to above.

Draft Development Consent Order			
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4.	2(1), 4(2), 5, 7, 8. Schedule 1 Works but not in detail but note sub-paragraph (o) at the very end of that Schedule and definition of 'authorised development' in article 2(1). I have not studied Schedule 2 Requirements in detail but note Requirements 34 & 35.		The extent of any flexibility provided by the DCO should be fully explained, such as the scope of maintenance works and ancillary works, limits of deviation and any proposed ability (through tailpieces) of discharging authorities to authorise subsequent amendments. The preferred approach to limiting this flexibility is to limit the works (or amendments) to those that would not give rise to any materially new or materially different environmental effects to those identified in the environmental statement. Also, further as to tailpieces, see section 17 of Advice Note 15. The drafting which gives rise to an element of flexibility (or alternatives) should provide clearly for unforeseen circumstances and define the scope of what is being authorised with sufficient precision. For example, the Secretary of State had to amend article 6 (Benefit of Order) of the National Grid (Richborough Connection Project) Development Consent Order 2017 at decision stage to remove ambiguity (as later corrected by the National Grid (Richborough Connection Project) (Correction) Order 2018). In relation to the flexibility to carry out advance works, any "carve out" from the definition of "commencement" should be fully justified and it should be demonstrated that such works are de minimis and do not have environmental impacts which would need to be controlled by requirement. See section 21 of Advice Note 15. Pre-commencement requirements should also be assessed to ensure that the "carve out" from the definition of "commencement" does not allow works which defeat the purpose of the requirement.
5.	22, 25, 26, 28 & 33		These provisions (and any relevant plans) should be drafted in accordance with the guidance in Advice Note 15, in particular sections 23 (extinguishment of rights) and 24 (restrictive covenants) The Secretary of State DfT's decision (paragraph 62 of the M4 Motorway (Junctions 3 to 12) (Smart Motorway) DCO) should be noted: "*to remove the power to impose restrictive covenants and related provisions as he does not consider that it is appropriate to give such a general power over any of the Order land as defined in article 2(1) in the absence of a specific and clear*

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			justification for conferring such a wide-ranging power in the circumstances of the proposed development and without an indication of how the power would be used". Other DfT decisions have included very similar positions, e.g. the A556 (Knutsford to Bowdon Improvement) DCO and the Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road)) DCO. Compulsory acquisition of an interest in land held by or on behalf of the Crown cannot not be authorised through this or any other article. This could be achieved, for example, by expressly excluding all interests held by or on behalf of the Crown in the book of reference land descriptions for relevant plots (where the DCO is drafted to tie compulsory acquisition powers to the book of reference entries) or by excepting them from the definition of the Order land (if 'Order land' definition is not used for other purposes in the DCO) or by drafting the relevant compulsory acquisition article to expressly exclude them. Where an applicant wishes to compulsorily acquire some other person's interest in that same land, that can only be done if the appropriate Crown authority consents to it under s135(1) of the Planning Act 2008. Where an applicant wishes to create and compulsorily acquire new rights over land, those rights should be fully, accurately and precisely defined for each relevant plot and the compulsory acquisition should be limited to the rights described. This could be done by drafting which limits the compulsory acquisition of new rights to those described in a schedule in the DCO or to those described in the book of reference. If the article is drafted to enable compulsory acquisition of new rights over **all** of the Order land, with a schedule which limits the compulsory acquisition power in defined plots to the defined rights listed in that schedule , this approach (allowing undefined rights in land not listed in that Schedule) should be clearly identified and the need for it explained and justified in the Explanatory Memorandum and Statement of Reasons. It is likely to be difficult to justify. There must be evidence to show that persons with an interest in the Order land were aware that undefined new rights were being sought over **all** of the Order land and were consulted on that basis. The Secretary of State DfT

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			has in at least three decisions (A585 Windy Harbour to Skippool Highway DCO, A30 Chiverton to Carland Cross DCO, Manston Airport DCO) limited the power to create undefined new rights by amending the temporary possession article (see below at 22). It should be noted that in the Manston Airport DCO the Secretary of State DfT removed the ability to create undefined new rights over land identified for temporary possession even though it was not an issue in examination. The reasons for this are set out at paragraph 121 of the DL: "The Secretary of State is concerned about the creation of new unidentified rights and is unclear whether affected land owners have been appropriately consulted". In all respects (including in relation to the book of reference), the applicant should follow *Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land* published by DCLG (now MHCLG) in September 2013.
6.	See the Preamble to the draft Order (immediately after the 'Contents') in relation to s132(3)		If it is argued that special parliamentary procedure should not apply (before authorising compulsory acquisition of land or rights in land being special category land) full details should be provided to support the application of the relevant subsections in Section 130, 131 or 132, for example (in relation to common, open space or fuel or field garden allotment) : • where it is argued that land will be no less advantageous when burdened with the order right, identifying specifically the persons in whom it is vested and other persons, if any, entitled to rights of common or other rights, and clarifying the extent of public use of the land • where it is argued that any suitable open space land to be given in exchange is available only at prohibitive cost, identifying specifically those costs.
7.	The applicability of this cannot be known prior to a formal application being accepted for examination.		Where a representation is made by a statutory undertaker (or some other person) that engages section 127(1) of the Planning Act 2008 and has not been withdrawn, the Secretary of State will be unable to authorise compulsory acquisition powers relating to that statutory undertaker land unless satisfied of specified matters set out in section 127. If the representation is not withdrawn by the end of the Examination, the ExA will need to reach a conclusion whether

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	See however A25, A26(6), A33 & A34 (& Schedule 11), A35 & A47(2)(h). Also see Requirement 19(3)(d) in Schedule 2.		or not to recommend that the relevant statutory test has been met in accordance with s.127. The Secretary of State will be unable to authorise removal or repositioning of apparatus (or extinguishment of a right for it) unless satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the order relates in accordance with section 138 of the Planning Act 2008. Justification will be needed to show that extinguishment or removal is necessary.
8.	A13		Notwithstanding other precedents, justification should be provided as to why the power is appropriate and proportionate having regard to the impacts on pedestrians and others of authorising temporary working sites in these streets.
9.	A10		This is a wide power – authorising alteration etc. of <u>any</u> street within the Order limits. It should be clear why this power is necessary and consideration given to whether or not it should be limited to identified streets.
10.	A9 (and Schedule 3 - please note they have not yet set out in Schedule 3 which provisions of the York Potash Order they seek to amend/ modify). Also I suspect article 9 contains a 'typo' re the name of that Order.		The guidance in section 25 of Advice Note 15 should be followed and, if not already provided, additional information sought such as • the purpose of the legislation/statutory provision • the persons/body having the power being disapplied • an explanation as to the effect of disapplication and whether any protective provisions or requirements are required to prevent any adverse impact arising as a result of disapplying the legislative controls • (by reference to section 120 of and Schedule 5 to the Planning Act 2008) how each disapplied provision constitutes a matter for which provision may be made in the DCO. Where the consent falls within a schedule to the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 evidence will be required that the regulator has consented to removing the need for the consent in accordance with s.150 Planning Act 2008.

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11.	A42		The word "take" should be removed from this article. Consent under section 135 (1) and (2) should also be obtained from the Crown authority.
12.	A18 re felling/lopping The struck through wording in column 3 of row 17 & 18 of this table does not apply to the current drafting of article 18 here.		The guidance in section 22 of Advice Note 15 should be followed. If it hasn't been followed justification should be provided as to why this is the case.
13.	A43 (and Schedule 12)		Advice Note 15 provides standard drafting for articles dealing with discharge of requirements. If this guidance hasn't been followed justification should be provided as to why this is the case.
14.	A7 & A8		If any part of this article is drafted so as to allow any transfer of benefit by the applicant (undertaker) to any other named person or category of person without the need for the Secretary of State's consent, then the applicant should provide full justification as to why a transfer to such person is appropriate. Where the purpose of the provision is to enable such person(s) to undertake specific works authorised by the DCO the transfer of benefit should be restricted to those works. If the provision seeks to permit transfer of compulsory acquisition powers the applicant should provide evidence to satisfy the Secretary of State that such person has sufficient funds to meet the compensation costs of the acquisition. See 23 below in relation to references to arbitration in this article.
15.	A17		The Applicant should be aware of and mindful of section 146 of the Planning Act 2008.
16.	A31 & A32		Temporary possession is not itself compulsory acquisition. Articles giving temporary possession powers should be considered carefully to check whether or not they allow temporary possession of **any** land within the

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			Order limits, regardless of whether or not it is listed in any Schedule to the DCO which details specific plots over which temporary possession may be taken for specific purposes listed in that Schedule. If they do, then the applicant should justify why those wider powers (which also allow temporary possession of land not listed in that Schedule) are necessary and appropriate and explain what steps they have taken to alert **all** landowners, occupiers, etc. within the Order limits to this possibility. If not already present, consideration should also be given to adding in a provision obliging the applicant (undertaker) to remove from such land (on ceasing to occupy it temporarily) any equipment, vehicles or temporary works they carry out on it (save for rebuilding demolished buildings under powers given by the DCO), unless, before ceasing to occupy temporarily, they have implemented any separate power under the DCO to compulsorily acquire it. If compulsory acquisition articles (land and rights) are drafted to authorise the compulsory acquisition of **all** of the Order land there will need to be a provision in the temporary possession article which prevents compulsory acquisition of land which is only intended to be used temporarily. For example: *The undertaker may not compulsorily acquire under this Order the land referred to in paragraph [(1)(a)(i)] except that the undertaker is not to be precluded from acquiring any part of the subsoil of or airspace over (or rights in the subsoil of or airspace over) that land under article [xx] (acquisition of subsoil or airspace only).* In that scenario the compulsory acquisition article would also need to be drafted in a way that expresses that it is subject to the temporary possession article (by reference to the temporary possession article number). If the temporary possession article drafting also says that the undertaker is not precluded from: *acquiring new rights or imposing restrictive covenants over any part of that land under article [xx] (compulsory acquisition of rights)*

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			careful consideration must be given to the drafting of the compulsory acquisition of rights article in relation to new rights/restrictions and the effect of its interaction with this provision. If the compulsory acquisition of rights article authorises the creation of new rights over **all of the order land,** in addition to the new rights described in a specific schedule, wording permitting the creation of new rights in accordance with that article will permit the creation of undefined new rights in the land over which temporary possession powers are granted (i.e. the schedule in the DCO listing the plots over which temporary possession is authorised – (Schedule 9). This is likely to be difficult to justify. In these circumstances it is important to look carefully at the book of reference, land plans and Statement of Reasons to see how the land in Schedule 9 is identified and described. If the land is consistently described as being for temporary possession, then it may be that persons with an interest in the land have not understood the nature of powers sought over their land and consequently have not been correctly consulted. The applicant should be able to clearly explain the powers that they are seeking over these plots, the need for these powers, how this is secured in the DCO and provide evidence that all persons with an interest in these plots have been consulted appropriately in a way that was clear about the nature of the powers sought. Indeed the Pinsent Masons comment next to Schedule 9 of the current version of the draft DCO includes the following statement: "This schedule will set out the plots which may **only** be occupied temporarily" (emphasis to "only" added). The Secretary of State for DfT has issued three decisions amending the drafting of the temporary possession article to remove the power to create undefined new rights in the land described as being for temporary possession (A585 Windy Harbour to Skippool Highway DCO, A30 Chiverton to Carland Cross DCO, Manston Airport DCO). One of the main reasons for this related to the failure to accurately consult those with an interest in the land on the nature of the powers sought, the land being described in all supporting documents and on the land plans, as being for temporary possession only.

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			There may be circumstances where it is permissible to retain drafting which enables the undertaker to acquire new rights in the land in the schedule in the DCO listing the plots over which temporary possession is authorised (article 31 & Schedule 9). For example, where there are cross-over plots with those listed in a schedule in the DCO containing detail of the new rights being compulsorily acquired (article 25 & Schedule 7). In those circumstances, if the new rights are precisely defined and have been consulted on, drafting could be included in the DCO along the following lines: *The undertaker may not compulsorily acquire under this Order the land referred to in paragraph [(1)(a)(i)] except that the undertaker is not precluded from— (a) acquiring new rights or imposing restrictive covenants over any part of that land under article [ ] (compulsory acquisition of rights) to the extent that such land is listed in column [(1)] of Schedule [xx]…* This drafting has precedent in the East Anglia Three Offshore Windfarm DCO, Hornsea Two Offshore Windfarm DCO and Norfolk Vanguard Offshore Windfarm DCO. Given the parliamentary approval to the temporary possession regime under the Neighbourhood Planning Act 2017 ('NPA 2017'), which were subject to consultation and debate before being enacted, should any provisions relating to notices/counter notices which do not reflect the NPA 2017 proposed regime (not yet in force) be modified to more closely reflect the incoming statutory regime where possible? As examples: • The notice period that will be required under the NPA 2017 Act is 3 months, substantially longer than the 28 days required under article 31 or article32. Other than prior precedent, what is the justification for only requiring]28 days' notice in this case? • Under the NPA 2017, the notice would also have to state the period for which the acquiring authority is to take possession. In this regard, see articles 31(3)(b) and 32(4)(b) which impose an obligation to do so, subject to such period being capable of variation from time to time by agreement between the undertaker and the "owner or occupier". In that regard is the word "or"

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			appropriate? – could it allow variation by an owner without the agreement of a separate occupier? • Powers of temporary possession are sometimes said to be justified because they are in the interests of landowners, whose land would not then need to be acquired permanently. The NPA 2017 Act provisions include the ability to serve a counter-notice objecting to the proposed temporary possession so that the landowner would have the option to choose whether temporary possession or permanent acquisition was desirable. Should this article make some such provision – whether or not in the form in the NPA 2017?
17.	A46		It is unlikely that a consenting Secretary of State will allow arbitration provision wording to apply arbitration to decisions he/she, or, if relevant the Marine Management Organisation ('MMO') may have to make on future consents or approvals within their remit. By way of example: The Secretary of State for BEIS included the following drafting in the arbitration article in the Norfolk Vanguard Offshore Windfarm DCO and the draft Hornsea Three Offshore Windfarm DCO (published with a minded to approve decision) to remove any doubt about the application of arbitration to decisions of the Secretary of State and the MMO under the DCO: *Any matter for which the consent or approval of the Secretary of State or the Marine Management Organisation is required under any provision of this Order shall not be subject to arbitration.* The Secretary of State for BEIS also agreed with the ExA recommendation to remove reference to arbitration in the transfer of the benefit article and the deemed marine licences (DMLs) in the Hornsea and Norfolk Vanguard DCOs. The Hornsea ExA recommendation report at 20.5.9 details the reasons for removal from the transfer of benefit article, and at 20.5.17 – 20.5.24 regarding removal from the DMLs. It should also be noted that the Secretary of State removed the following from the arbitration clause in both DCOs:

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			Should the Secretary of State fail to make an appointment under paragraph within 14 days 42 of a referral, the referring party may refer to the Centre for Effective Dispute Resolution for appointment of an arbitrator.
18.	A39		Are the controls on noise elsewhere in the DCO sufficient to justify the defence being provided by this article to statutory nuisance claims relating to noise? If the defence has been extended to other forms of nuisance under section 79(1) Environmental Protection Act 1990, the same question will apply to those nuisances. This article also sometimes refers to legislation that has been repealed – e.g. s65 Control of Pollution Act 1974. It should refer to extant legislation only.
19.	A36 (& Schedule 10 which is not currently populated)		It is unlikely that a consenting Secretary of State will allow bespoke appeal procedures to apply to the Marine Management Organisation ('MMO') decisions on discharge of conditions in a deemed marine licence. By way of example: The Secretary of State for BEIS removed drafting in the Norfolk Vanguard Offshore Windfarm DCO and the Hornsea Three Offshore Wind Farm DMLs creating a bespoke appeal procedure against MMO decisions on discharge of conditions. The ExA recommendation report for Hornsea Three provides reasons at 20.5.25 – 20.5.29.
20.	A13 (Schedule 6)	Table 5	Further details are required to accurately identify the specific RoW. Please include correct naming and 'routecodes' for each individual RoW.
21.	A13 (Schedule 6)	Table 5	It would be helpful if the nature of the modification from the existing situation can be established, i.e. which of the following types of change are planned - '*temporarily stop up, prohibit the use of, restrict the use of, alter or divert*'
22.	A13 (Schedule 6)	Table 5	An unlabelled public footpath stated to be shown on sheet 3 of the ARoW plans is given as being in the District of Stockton-on-Tees. It would appear that the entire area depicted on sheet 3 of the ARoW plans is within the District of Redcar and Cleveland (as are sheets 1-4). Only sheets 5-7 appear to be within the district of Stockton-on-Tees.

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23.	Schedule 2 R3		States that the Applicant has to give the relevant planning authority 14 days' notice of a commercial start date, however the dEM only requires 7 days' notice. Please ensure all notice periods are consistent with that in the EM

Draft Explanatory Memorandum			
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24.	General		The Applicant should ensure all Article descriptions within the EM match those in the dDCO. Example: Article 9 in the EM is "Application and modification of legislative provisions". Article 9 in the dDCO is "Amendment and modification of statutory provisions".
25.	General		Ensure all number paragraphing is correct and chronological. Example: In Part 5 (Powers of Acquisition) of the EM there are duplicates of paragraph 4.5.1 and 4.5.2
26.	4.5.4		There is no Article title for this paragraph
27.	4.7.6		References paragraph 3.7.8 but this paragraph does not exist in the EM.
28.	General		Ensure cross referencing between the EM and dDCO is correct and consistent. Example: Article 34 it states that there will be restrictions under Articles 12 and 13 however, the dDCO there will be restrictions under Article 10, 11 or 13.

Draft Explanatory Memorandum			
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29.	General		The Applicant is reminded that when referencing other Acts that they are consistent in the EM and dDCO. Example: Article 38 in the EM section 263 of the Town and Country Planning Act 1990 is referenced, however in the dDCO the Applicant referenced section 264(3)(a)
30.	2.1.2		The Applicant should ensure that the EM is clear as to which works are NSIP, which are associated development associated with the NSIP as described in Works No.1, under s115, and which works come under the s35 direction (due to the s35 wording, would include development associated with the main s35 development, so that THAT associated development would come under s115(1)(a) not s115(1)(b)).
31.	2.2.1		The Applicant should consider defining all companies named in the paragraph, using the full name and company number
32.	2.2.4		The Applicant must be clear on whether a deemed marine licence relates only to the pipeline crossings of the tidal River Tees and the water outfall from the Proposed Development site.
33.	2.5.2		Is this part of the DCO application? The final bullet point gives the impression that it is. Is greater clarity needed to the extent of the pipeline included?
34.	3.1.1		"up to" is not the approach currently taken in Work No.1 of Schedule 1 to the DCO. It is also noted that the work in the dDCO refers to an EM paragraph that does not exist.
35.	3.2.1		The Applicant is reminded to accurately summarise all aspects that the s35 direction covers.
36.	3.3.2		Accurately reflect what comes under s115(1)(a) as opposed to s115(1)(b) as stated in Ref no.28
37.	3.4.1		This is not a totally accurate reflection of 'undertaker' in article 2(1) of the DCO as that also includes "or the person who for the time being has the benefit of this Order …". The same applies to the final bullet point of 4.2.2.
38.	4.2.7		Refers to model provisions being amended without referring to the exact model one(s) so amended. I think it would be advisable for this, and any other similar references in the EM to amended model provisions, to specify exactly which model provision(s) they refer to.

Draft Explanatory Memorandum			
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39.	4.2.9		Refers to a precedent made DCO. Please explain why it is appropriate to the Proposed Development's DCO. The same applies to all other references in the EM to precedent made DCOs.
40.	4.2.15 to 4.2.17		It would be helpful to include an explanation of what agreement (if any) has been reached with the York Potash Order undertaker.
41.	4.3.6.1		It would be helpful to include an explanation of what agreement (if any) has been reached with Natural England on this draft article.
42.	4.5.15 to 4.5.22		Refer to comments at Ref No.16. 4.5.18 is misleading as it does not specify that land outside that listed in Schedule 9 to the DCO can also be subject to TP under Article 31.
43.	4.2.23		Does the drafting of articles 22, 23, 25 and/or 26 need to be amended in the dDCO to make them expressly subject to article 33?
44.	4.6.6		The Applicant should ensure they are using the most recent version of such an article used in the dDCO subsequent to the 2016 one to which they refer
45.	General		Ensure all descriptions of Works are consistent with those within the dDCO Example: Work No.2 is referred to as a gas connection in the EM. In the dDCO Work No.2 is referred to as a gas supply works.

Draft Explanatory Memorandum			
Ref No.	**Paragraph**	**Extract from EM**	**Comment/Question**
46.	4.7.3	*"Work No. 1 (the generating station) does not impose an output (megawatt) capacity cap on the generating station, in order to grant the undertaker flexibility to procure, construct and operate the most economic and efficient generating station, taking into account advances in technology. This is similar to the approach that has been taken in some other recent generating station DCOs (such as the Cleve Hill Solar Park Order 2020 and the Hornsea Three Offshore Wind Farm Order 2020). A megawatt cap is not required in the DCO in order to control environmental impacts (such as air quality) since there are other mechanisms – in particular the environmental permit – which will achieve this. The scale of the main buildings is controlled via Requirement 4(12) and Schedule 14"*.	To allow the SoS to lawfully grant development consent, the DCO must reflect what has been assessed in the ES. This ensures that any authorised Proposed Development could not result in likely significant effects beyond those assessed in the ES. It is unclear how a worst case in terms of emissions to air could be assessed in the ES and HRA without a MW capacity cap on the CCGT generating station. Any controls under (or assessment which may be carried out in relation to) other mechanisms such as an Environmental Permit cannot substitute the assessment which must be made by the SoS in keeping with his statutory duty under the EIA Regulations (or HRA Regulations). The North London Heat and Power Project NSIP may be of relevance here - in that case, the SoS modified the draft Order to remove the reference to a minimum capacity and to instead refer to a maximum capacity of 70MW. The SoS considered that it was appropriate to include a maximum figure and included 70MW as this had been assessed in the ES (later updated to 78MW following an application for a non-material change).

Draft Land Plans			
Ref No.	**Land Plan Ref**	**Extract from Plan Key (for ease of reference)**	**Comment/Question**
47.	General		Plans labels are cluttered at times, hard to read.
48.	General		Land requirement colour coding does not match land requirement description in the BoR.

Draft Works Plans			
Ref No.	**Work Plan Ref**	**Extract from Schedule 1: Authorised Development (PART 1)**	**Comment/Question**
49.	No. 2A and 2B		Not referenced consistently with the other plans in the Draft DCO.
50.	No. 11		Work not shown on work plan but listed as a work in the DCO.

Book of Reference			
Ref No.	**Paragraph/ Section**	**Extract from Book of Reference (for ease of reference)**	**Comment/Question**
51.	Contents Page		The description of Part 2 does not include reference to s152(3) of the PA2008
52.	General		Whilst an Introduction is not strictly necessary, at the end of paragraph 1.8 of the Introduction the Applicant states "it should be noted that there is no areas within the Order land which come with these categories". Does the Applicant mean: Singular "category" (i.e. category 3) and "no persons" rather than "no areas"? In addition, the Applicant should be advised that category 3 persons can exist for areas of land outside the Order and at present the Applicant's comments relate only to land within the Order land.
53.	Part 5		In the third column of Part 5 the Applicant states "Public Open Space". Does the Applicant intend to amend this to simply "Open Space" given the wording of s131/132 PA2008?

Book of Reference			
Ref No.	**Paragraph/ Section**	**Extract from Book of Reference (for ease of reference)**	**Comment/Question**
54.	General		There are many entries in the second column of the book of reference which start with the description, "Temporary use of…". Firstly, those words do not describe the land (which is what that column is meant to do). Secondly, if they have done this on the basis that creation and CA of a new a new right is itself "land" then they should be advised/reminded that (a) new rights to be CA'd (rather than TP) should not be expressed as temporary; and (b) TP is not itself CA.
55.	General		In some cells of the book of reference they have entered dashes (and left others totally blank). Annex D of the *Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land* states that "'Dashes' or other ambiguous descriptions should be avoided". Rather than dashes or blank spaces it would be more advisable to enter "None". They should also be mindful of all other advice in that Annex D.

Draft RoW Plans			
Ref No.	**RoW Plan Ref**	**Extract from [abbreviation of doc] (for ease of reference)**	**Comment/Question**
56.	General		Cutlines between plans (as has been used on land plans) would help to improve clarity
57.	General		Plans / legend could show greater detail to help identify sections of RoW. Suggest labelling and/or colouring each individual path.
58.	General		Ensure all RoW are labelled with the correct name / 'routecode' to allow accurate identification. This should also be incorporated into the tables at Schedule 6 of the DCO
59.	General		If applicable, show the path of the altered RoW on the ARoW plans.

Draft Habitats Regulations Assessment (Appropriate Assessment) report ('draft HRA Report') *NB. The following comments are based on the draft HRA (Appropriate Assessment) report provided by the Applicant as part of the suite of draft application documents for review by PINS. These comments do not cover the separate LSE report noted to form part of the Preliminary Environmental Information Report (PEIR).*			
Ref No.	**Paragraph/ Section**	**Extract from draft HRA Report (for ease of reference)**	**Comment/Question**
1.	1.1.1 and 3.1.1	*"Together with the Likely Significant Effects (LSE) report originally produced for the Preliminary Environmental Information Report (PEIR) and resubmitted, without amendments, to accompany this document…".*	The Stage 1 screening assessment is typically presented as part of the main HRA Report for NSIP applications, rather than as a separate document. This reduces the need for cross-reference between reports and provides clarity. If the detailed assessment of LSE is to be presented in a separate document, the HRA AA Report should cross-reference to specific paragraph numbers to ensure the relevant evidence can be located (e.g. paragraph 3.1.1 of the draft HRA Report currently just states that *"…the reasons for inclusion of these sites are provided in the PEIR LSE report").*
2.	1.2.4 and 3.1.1	*"For reference, a detailed description of the location of the Proposed Development in relation to relevant European sites (i.e. SACs, SPAs and Ramsar site, including sites going through the designation process) is also provided in Chapter 3 (The Site and Surrounding Area) of the Environmental Statement".*	As per comment in row above – if referring to separate documents, the HRA Report should provide specific paragraph numbers. Suggest adding reference to figures provided within the HRA Report/application documents which identify the locations of the relevant European sites, relative to the application site. Reference is made in paragraph 1.2.4 of the draft HRA Report to "*sites going through the designation process*" although no such sites are identified in paragraph 3.1.1. For information, UK Government policy requires any potential SPAs, proposed Ramsar sites and possible SACs to be given the same protection as if they were a designated habitat site. Any potential impacts to such sites as a result of the Proposed Development should be assessed as if they were designated European sites.
3.	2.1.3	*"Whilst the HRA decisions must be taken by the competent authority (The Planning Inspectorate as Examining Authority)…"*	The relevant Secretary of State is the competent authority for the purposes of the Habitats Regulations for applications submitted under the PA2008 regime. The findings and conclusions on nature conservation issues reported by the ExA will assist the Secretary of State in performing their duties under the Habitats Regulations.

Draft Habitats Regulations Assessment (Appropriate Assessment) report ('draft HRA Report') *NB. The following comments are based on the draft HRA (Appropriate Assessment) report provided by the Applicant as part of the suite of draft application documents for review by PINS. These comments do not cover the separate LSE report noted to form part of the Preliminary Environmental Information Report (PEIR).*			
Ref No.	**Paragraph/ Section**	**Extract from draft HRA Report (for ease of reference)**	**Comment/Question**
4.	2.2.2	*"In practice, the Appropriate Assessment takes any element of the Proposed Development that could not be excluded as having adverse impacts on integrity following HRA Stage 1 and assesses the potential for an effect in more detail, with a view to concluding whether there would be an adverse effect on site integrity".*	Would the wording here (specifically, "*…that could not be excluded as having adverse impacts on integrity following HRA Stage 1…"*) be clearer by instead referring to LSE not being able to be excluded at HRA Stage 1?
5.	2.2.8	*"The worst-case (i.e. the potentially most impactful) construction and operational scenarios have been assessed in relation to impact pathways."*	It is unclear how a worst case in terms of emissions to air could be assessed in the HRA without a MW capacity cap on the CCGT generating station. Please refer to comments above regarding paragraph 4.7.3 of the draft EM.
6.	4.4.1	*"This section provides a brief summary of the European sites and impact pathways that were screened out or taken forward to the Appropriate Assessment stage. The summary is shown by European site and impact pathway, with construction (C) and operational (O) period clearly marked".*	Impacts during decommissioning of the Proposed Development should also be considered in the HRA Report, as relevant.
7.	Chapter 4	*"Recap of Likely Significant Effects Test"*	This section identifies the European sites which are being taken forward to HRA Stage 2: AA, but it is unclear from this section which (or whether all) qualifying features of these European sites are being taken forward to AA. A tabulated summary of the outcome of the screening assessment would be useful here (covering European sites, impacts, development phases and qualifying features).

Draft Habitats Regulations Assessment (Appropriate Assessment) report ('draft HRA Report')

NB. The following comments are based on the draft HRA (Appropriate Assessment) report provided by the Applicant as part of the suite of draft application documents for review by PINS. These comments do not cover the separate LSE report noted to form part of the Preliminary Environmental Information Report (PEIR).

Ref No.	Paragraph/ Section	Extract from draft HRA Report (for ease of reference)	Comment/Question
8.	4.3.1	*"Teesmouth and Cleveland Coast SPA / Ramsar* • *Visual and noise disturbance (C) [construction]"*	It appears from paragraphs 5.1.26-27 of the draft HRA Report that visual and noise disturbance during operation has also been taken forward to HRA Stage 2 for the Teesmouth and Cleveland Coast SPA and Ramsar site – should paragraph 4.3.1 be updated to reflect this?
9.	5.1.24	*"While the CEMP is not specifically designed to reduce impacts on bird species, any measures included will also mitigate noise impacts in the SPA / Ramsar by reducing noise levels at the birds".*	The Applicant could consider providing a separate construction noise management plan for the relevant European sites. For example, a management plan of this type was provided for the Cleve Hill Solar Park application. As a general point regarding the description of proposed mitigation measures in the draft HRA Report, clear cross-referencing should be added in to demonstrate how each measure would be secured, with reference to specific paragraph numbers in management plans and to dDCO Requirements (or other legal mechanism). Evidence of any agreement with Natural England regarding proposed mitigation measures should be provided.
10.	5.1.27	*"…the noise modelling is currently being updated. A conclusion on adverse effects regarding operational noise will therefore be reached in a later refresh of this Appropriate Assessment".*	It is not clear from this statement whether the updated noise modelling and refresh of the AA will be completed before submission of the DCO application. For the avoidance of doubt, sufficient information to inform the competent authority's AA (should one be required) should be provided with the DCO application.

Draft Habitats Regulations Assessment (Appropriate Assessment) report ('draft HRA Report') *NB. The following comments are based on the draft HRA (Appropriate Assessment) report provided by the Applicant as part of the suite of draft application documents for review by PINS. These comments do not cover the separate LSE report noted to form part of the Preliminary Environmental Information Report (PEIR).*			
Ref No.	**Paragraph/ Section**	**Extract from draft HRA Report (for ease of reference)**	**Comment/Question**
11.	Section 5.2	*"North York Moors SAC/SPA – Atmospheric pollution (operation)"*	As these are two different European sites with different qualifying features, it may improve clarity to consider the sites separately here. In respect of the North York Moors SAC, the Applicant's consideration of potential AEoI in Section 5.2 relates to effect of atmospheric pollution on the blanket bogs and heathland qualifying features. In terms of the North York Moors SPA, the Applicant is advised to consider and conclude specifically on the potential for AEoI of the avian qualifying features - presumably this would relate to the effects of atmospheric pollution on habitats which support these qualifying features (akin to the assessment provided in respect of Teesmouth and Cleveland Coast SPA and Ramsar site, at paragraph 5.1.28 onwards).
12.	5.1.63 and 5.1.64	*"A Habitat Management Strategy (HMS) will be developed to reinstate dune habitats and provide appropriate aftercare. The HMS will set out the mitigation measures required to restore habitats and species to pre-development conditions, which will also ensure that there are no long-term impacts on the habitat use and foraging ecology of SPA / Ramsar birds".*	It is noted that *"…details of a potential HMS are not yet established…".* However, paragraph 5.1.64 states that a package of measures within a HMA *"…would be required to draw a conclusion of no adverse effects on the integrity of the Teesmouth and Cleveland Coast SPA / Ramsar"*. If the Applicant is relying on measures within the HMS to conclude no AEoI, a draft HMS must be provided with the DCO application. This could otherwise affect a decision on acceptance of the DCO application.

Draft Habitats Regulations Assessment (Appropriate Assessment) report ('draft HRA Report')

NB. The following comments are based on the draft HRA (Appropriate Assessment) report provided by the Applicant as part of the suite of draft application documents for review by PINS. These comments do not cover the separate LSE report noted to form part of the Preliminary Environmental Information Report (PEIR).

Ref No.	Paragraph/ Section	Extract from draft HRA Report (for ease of reference)	Comment/Question
13.	Chapter 6 and Table 6-1	*"Table 6-1: Plans, projects and strategies with the potential for acting 'in-combination' with the Proposed Development. These plans are at varying stages, ranging from conceptual phases to having obtained planning consent (see table text). Note that only the most significant and closest plans / schemes to the Proposed Development are identified here (for further information see Chapter 24 of the ES (Cumulative Effects))".*	Suggest adding in some further explanation of how the plans, projects and strategies with potential for in-combination effects together with the Proposed Development were identified. Have these been agreed with relevant consultation bodies including Natural England? It is stated that Table 6.1 of the draft HRA Report covers "*only the most significant and closest plans / schemes to the Proposed Development",* but it is unclear on what basis this decision has been made without sight of the ES Cumulative Effects chapter. Would benefit from some further justification in the HRA Report and/or specific cross-reference to where this is set out in the ES. For completeness, should Table 6.1 of the draft HRA Report also capture the projects referenced in paragraphs 6.1.3 – 6.1.6 (even if just to signpost to the assessment below)?
14.	Appendices	N/A	Please include screening and integrity matrices in the templates provided in Appendices 1 and 2 of PINS Advice Note 10. The footnotes should cross-reference to evidence of any agreement with Natural England regarding the conclusions reached and to where proposed mitigation measures would be secured, with reference to specific paragraph numbers in management plans and to dDCO Requirements (or other legal mechanism). Matrices should also cover in-combination effects, as relevant.

General

1. Where references are provided to other 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 sign-posting) as well as their respective reference number.

2. DCLG: 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.*"

The Net Zero Teesside Project – EN010103

Section 51 Advice regarding draft Application document submitted by Net Zero Teesside Power Limited and Net Zero North Sea Storage Limited

This advice relates solely to matters raised upon the Inspectorate's review of the draft application document submitted by Net Zero Teesside Power Limited and Net Zero North Sea Storage Limited ("the Applicant"), and not the merits of the proposal. The advice is limited by the time available for consideration and raised without prejudice to the acceptance or otherwise of the eventual application. It is provided to assist the preparation of the next iteration.

Draft ES Chapter 4 – Proposed Development description			
Ref No.	**Paragraph/ Section**	**Extract from ES Chapter 4 (for ease of reference)**	**Comment/Question**
1.	4.1.3	*"…the capture and compression at source of third-party CO_2 emissions from these locations before entering the proposed CO_2 Gathering Network does not form part of the Application and is not considered in this Environmental Statement (ES). Development of these third party carbon capture and compression facilities will be the subject of separate consent applications by the operators of these facilities".*	Suggest including an explanation/justification as to whether an assessment of cumulative effects with third party carbon capture and compression facilities has been provided in this ES.
2.	4.1.6	*"The consent application for the offshore works is currently being progressed and will be supported by a separate EIA".*	The Examining Authority (ExA) will be interested in the likely timescales for submission of the offshore works application. Suggest confirming here or adding in cross reference to where this information is provided in the application documents (e.g. any 'other consents and licences' document).
3.	4.1.6	*"Therefore the combined effects of the onshore and offshore works are considered in the Combined Effects Report".*	In addition to the Combined Effects Report, paragraph 4.3.55 in draft ES Chapter 4 suggests that impacts from the onshore works together with the offshore works will be considered in ES Chapter 24: Cumulative and Combined Effects (ES Volume I, Document Ref. 6.2). Add reference to ES Chapter 24 here?

Draft ES Chapter 4 – Proposed Development description			
Ref No.	**Paragraph/ Section**	**Extract from ES Chapter 4 (for ease of reference)**	**Comment/Question**
4.	4.1.6	*"As the offshore EIA is still being developed, there is currently limited information available on the offshore effects, so the Combined Effects Report that accompanies this DCO application is relatively high level".*	The Applicant may wish to update the Combined Effects Report (and ES Chapter 24: Cumulative and Combined Effects) should more information become available regarding the offshore impacts during pre-application, or post submission of the DCO application - since an ExA might request this information.
5.	4.2.1	Work No.1(d) Water treatment plant	Work No.1(d) in the draft DCO (dDCO) includes a number of other elements in addition to the water treatment plant – should these be referenced/summarised here?
6.	4.2.7	*"Should a Development Consent Order (DCO) be granted for the construction and operation of the Proposed Development…"*	Should this read *"…construction, operation and decommissioning of the Proposed Development…"* (for consistency with paragraph 4.1.1 of draft ES Chapter 4)?
7.	4.2.9	*"The CO_2 Gathering Network and CO_2 Export Pipeline have been designed to operate independently of the PCC Site and will have a design life of around 40 years".*	Please ensure that the potential for the CO_2 Gathering Network and CO_2 Export Pipeline to operate for 40 years has been taken into account in the ES assessments (as relevant).
8.	4.3.5	*"In accordance with Rochdale Envelope principles, for the purposes of this Application, the Low-Carbon Electricity Generating Station is therefore described in this document as having a "nominal output of up to 860 MWe unabated (760 MWe abated)".*	This should be consistent with the maximum capacity specified in the dDCO.
9.	4.3.40	Routeing of the CO_2 Gathering Network across the River Tees	With two potential options here, suggest confirming how this has been assessed in the ES – have both options been assessed or would one represent a worst-case?
10.	4.3.54	*"The export pipeline will be installed either using open cut techniques or by trenchless technologies".*	Assume this is in reference to the off-shore section of the export pipeline (given that paragraph 4.3.52 confirms that the on-shore and near shore section of the CO_2 Export Pipeline would be installed using trenchless techniques). Could be made slightly clearer in para 4.3.54.

Draft ES Chapter 4 – Proposed Development description			
Ref No.	**Paragraph/ Section**	**Extract from ES Chapter 4 (for ease of reference)**	**Comment/Question**
11.	4.3.57	Natural gas connection	It is explained that the new gas pipeline would require a crossing of the Tees via a new tunnel. Would this be co-located with the proposed CO_2 pipeline under the Tees or within a separate tunnel? (appreciate this is likely to be apparent from figures accompanying the DCO application but suggest also describing here).
12.	4.3.61	*"The project has identified two alternative routes for the new gas supply which will be further developed during the design phase…"*	With alternatives presented in relation to the gas pipeline route, suggest confirming how this has been assessed in the ES - have each of the alternatives been assessed or would one represent a worst-case?
13.	4.3.59	*"The new gas pipeline will be installed below ground using a combination of open-cut and trenchless technologies, depending on the constraints or crossings required".*	• Suggest confirming what parameters the ES assessments have been based on for the working width during construction of the proposed new pipeline. • Suggest confirming how this has been assessed in the ES – have impacts from both open-cut and trenchless techniques been assessed, or a worst-case?
14.	4.3.73 – 4.3.77	'Design Parameters' section	Suggest including an explanation/ justification as to why maximum parameters have been defined in Table 4-1 for certain components of the DCO scheme but not all.
15.	Table 4-1	Table 4-1: Maximum design parameters	The parameters have not been populated in Schedule 14 of the dDCO yet – but for the avoidance of doubt, these should be consistent with the parameters on which the ES assessments of LSE have been based.
16.	Table 4-1	Table 4-1: Maximum design parameters	Maximum design parameters are provided for the stack (inner diameter and height) but no minimum parameters. The minimum parameters for the stack height/inner diameter should be included in ES Table 4-1 and Schedule 14 of the dDCO. This would provide the ExA and SoS with assurance any authorised Proposed Development could not result in likely significant effects beyond those assessed in the ES.
17.	4.3.73 – 4.3.77	'Design Parameters' section	Suggest confirming what assumptions have been made in the ES on the locations of the stacks and how this would this be controlled by the dDCO.

Draft ES Chapter 4 – Proposed Development description			
Ref No.	**Paragraph/ Section**	**Extract from ES Chapter 4 (for ease of reference)**	**Comment/Question**
18.	4.4.12 - 4.4.17	Maintenance	Suggest confirming the approach to assessing impacts from maintenance in the ES.
19.	4.4.24	*"…a detailed lighting scheme will be submitted to Redcar and Cleveland Borough Council (RCBC) for approval".*	Suggest adding a reference here to where this is secured in the dDCO.
20.	4.6.1	*"The design life of the CO_2 Gathering Network, the HP Compressor Station and the CO_2 Export Pipeline is anticipated to be longer…"*	The anticipated design life of these elements is described as *"longer"* than the approximately 25-year design life of the power generation and carbon capture elements but is not quantified here. Paragraph 4.2.9 of draft ES Chapter 4 refers to a design life of *"around 40 years"* for the CO_2 Gathering Network and CO_2 Export Pipeline – reflect here for consistency?
21.	4.6.7	*"A Decommissioning Plan (including Decommissioning Environmental Management Plan (DEMP)) will be produced…"*	Suggest adding a reference here to where this is secured in the dDCO.
22.	4.6.13	*"In the light of the control measures set out above that would form part of the DEMP, decommissioning is not anticipated to present any significant environmental impacts beyond those assessed for the construction phase of the Proposed Development".*	• Reliance appears to be placed on these control measures in ensuring decommissioning does not present any significant environmental effects beyond those assessed for the construction phase. The Applicant is therefore advised to provide an outline/draft DEMP with the DCO application, which includes the control measures set out in Section 4.6 of draft ES Chapter 4. • Notwithstanding this conclusion, the ES aspect chapters should explain how impacts from decommissioning have been considered in relation to that aspect.
23.	4.8.1	*"The following parts of the Proposed Development (as shown in Figure 4-2) will be located off-shore below MLWS and consented under a separate ML, supported by a separate EIA and are not part of this Application or ES:"*	Earlier in the draft chapter it is confirmed that effects from the DCO scheme together with the offshore works are assessed in the Combined Effects Report and Chapter 24 of this ES. To avoid any confusion, could remove the words *"or ES"* from paragraph 4.8.1 and reiterate that point here?

General

1. Where references are provided to other 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 sign-posting) as well as their respective reference number.

2. DCLG: 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.*"