

Redcar and Cleveland Borough Council

Second Round of Questions Deadline 4: 6 November 2015

The York Potash Project – Harbour Facilities Order

Development Consent Order

PINs Application Reference Number TRO30002

LPA Application Reference Number R/2015/0218/DCO

The proposed development is the construction and operation of Harbour facilities at Bran Sands, Teesside for the export of polyhalite bulk fertilizer, which will be linked by conveyor to a materials handling facility located within the Wilton International Complex, Redcar.

Second Round of Questions

DCO 2.6

To: Redcar and Cleveland Borough Council (RCBC), Natural England (NE) and the Marine Management Organisation (MMO)

Are RCBC, NE and the MMO satisfied that the new Requirements 3(3) and 3(4) are adequate to address the concerns raised previously raised regarding the potential need for surveys to establish the baseline prior to commencement of Phase 2 of the development?

For clarity it may be helpful for the 'baseline conditions' referred to are defined with the relevant document cross reference.

Environmental Protection colleagues have responded as follows: "We are satisfied that the new requirements of 3(3) and 3(4) are sufficient to address the concerns raised regarding re-establishing baseline conditions, if required, should Phase 2 commence after 6 years."

DCO 2.7

To: All IPs, in particular RCBC

Are IPs, in particular RCBC, satisfied that the amended wording of Requirement 6(2) adequately ensures that any alteration to the CEMP would not prevent the delivery of the construction mitigation identified in the governance tracker (Document 6.8A) and identified and assessed in the environmental statement?

Response

An additional word – 'statement' is required at the end of the last sentence

Environmental Protection colleagues have responded as follows: "We are satisfied that the re-wording of requirement 6(2) will ensure that any alteration to the CEMP would not prevent delivery of appropriate construction mitigation."

DCO 2.9

To: The Applicant, RCBC and MMO

There does not appear to be provision included for appeals against refusal of approval under requirements or conditions as would typically be found within a DCO. Should such provisions be inserted? Most, but not all, approvals are referred to as being in writing. Should not this always be the case? Most requirements, provisions and conditions are phrased in terms of 'must' or 'shall' but some are phrased in lesser terms. Should not "shall" be avoided in favour of "will" or "must", and terms necessitating strict adherence be used throughout?

Response

Suggest a reference in this Schedule to an agreement, approval, consent, notice, report, scheme, submission or any other form of communication is a reference to that form of communication being in writing.

In the context of the DCO does not the use of shall mean an instruction command or obligation?

Consideration may be given to introducing a similar schedule to Schedule 7 of the FM2 Power Station Order 2015 SI 2015 No. 9999 with regard to dealing with the requirements/conditions

DCO 2.13

Hierarchy of Plans

To: all IPs (in particular the MMO, NE and RCBC)

The Applicant provided at DL1 a diagram showing the hierarchy of plans identified in the draft DCO and DML to deliver the mitigation identified in the Environmental Statement (ES) and the Habitat Regulations Assessment(HRA) Report [REP1-031].

Please consider whether all plans identified in the DCO/DML have been identified on the diagram – if not, what is missing? Please also consider whether the wording in the requirements/articles/conditions, referred to as being the mechanism to deliver the plans identified in the diagram, is sufficient and does actually require the delivery of these plans?

Response

The documentation and in particular the DCO are sufficient to deliver the mitigation envisaged by the proposal. For clarity the Article (Article 6(3)) in the DCO regarding compliance with the ES for clarity could also mention the HRA.

DCO 2.14

To: The Applicant, Environment Agency (EA), RCBC and MMO

Clarity with regard to enforcement

Are the local planning authority and MMO satisfied that there is sufficient clarity as to the responsible body with regard to enforcement of the various requirement, provisions and conditions? For example is there a need to define 'land' generally in relation to the DCO and not just in Article 16? The points raised in question Ec 2.1 may also be relevant.

Response

For clarity the relevant plans could be annotated with reference or references as to who is the responsible. Alternatively the requirements/conditions could be redrafted to include an informative note as to who the responsible body is.

DCO 2.17

Works beyond Mean Low Water (MLW)

To: RCBC, MMO and the Applicant

Is there a need for insertion of an article to bring any physical works undertaken below MLW that will project above sea level within the jurisdiction of Redcar and Cleveland Borough Council as local planning authority under the principle of accretion?

Response

This may be useful for clarity.

PAR 2.1

Crossing of A1085 and Hot Metal rail route/access road

To: RBT/Tata Steel UK/The liquidators of SSI UK

To: RCBC

To: The Applicant and IPs seeking to protect pipeline and other underground assets

Please indicate whether you are able to provide any further evidence beyond the alternative options referred to in the Tata/SSI submission of 9 October 2015 to counter that put forward by the Applicant and accepted by pipeline operators as to why the conveyor cannot cross these corridors underground. The Applicant and any other concerned IP should comment on the 3 options shown in the 9 October 2015 submission from Tata/SSI.

Response

No further evidence with regard to conveyor corridor.

The three options shown in the submission from TATA/SSI would require further detailing not least with regard to the movement of the product.

TT 2.1

Potential interference with Royal Mail operations - the effect of lorry movements on national and local roads

To: RCBC

To: Highways England

To: The Applicant

You will have seen the late representation from Royal Mail dated 2 October 2015. Please provide comments and indicate whether you consider that Requirement 7 in Schedule 2 should sufficiently safeguard the interests of Royal Mail.

Response

Engineering colleagues have advised that they are satisfied that Requirement 7 in Schedule 2 will safeguard the interests of Royal Mail as there will be minimal impact on the network from the development.

TT 2.2

Duration of works to A1085 Roundabout

To: The Applicant

To: RCBC

In the light of concerns expressed by pipeline operators, is any further limitation necessary on the duration and timing of the works to create and remove the temporary construction access?

Response

Engineers have advised that they are satisfied that the works which require consent will be acceptable in highway terms for the duration of its operation

NV 2.1

Noise, vibration and air quality - proposed mitigation measures

To: RCBC

Please confirm the comment made at the hearing on 25 September 2015, that you are satisfied that no further requirements or other provisions are necessary in the DCO beyond those contained in the latest draft of the DCO.

Response

Environmental Protection colleagues have advised that they are satisfied that there are no further requirements or provisions needed beyond those currently in the revised DCO (2nd October 2015) and requirement 6(1) to address the concerns initially raised regarding noise, vibration and air quality.

LVA 1.1

Landscape enhancement

To: RCBC

To: Sembcorp Utilities UK

Please clarify the ownership of the open land between the housing in Dormanstown and the SembCorp boundary and that of the adjoining land to the south of the housing which is maintained to a higher standard and contains some recent tree planting.

Please indicate whether there would be any reason why, in principle, landscape enhancement works could not be undertaken on these areas, whether within or outside the SembCorp boundary, to mitigate any adverse visual impact of the conveyor in accordance with the provisions of the proposed s106 agreement (Community Environmental Fund and/or Gateway contribution).

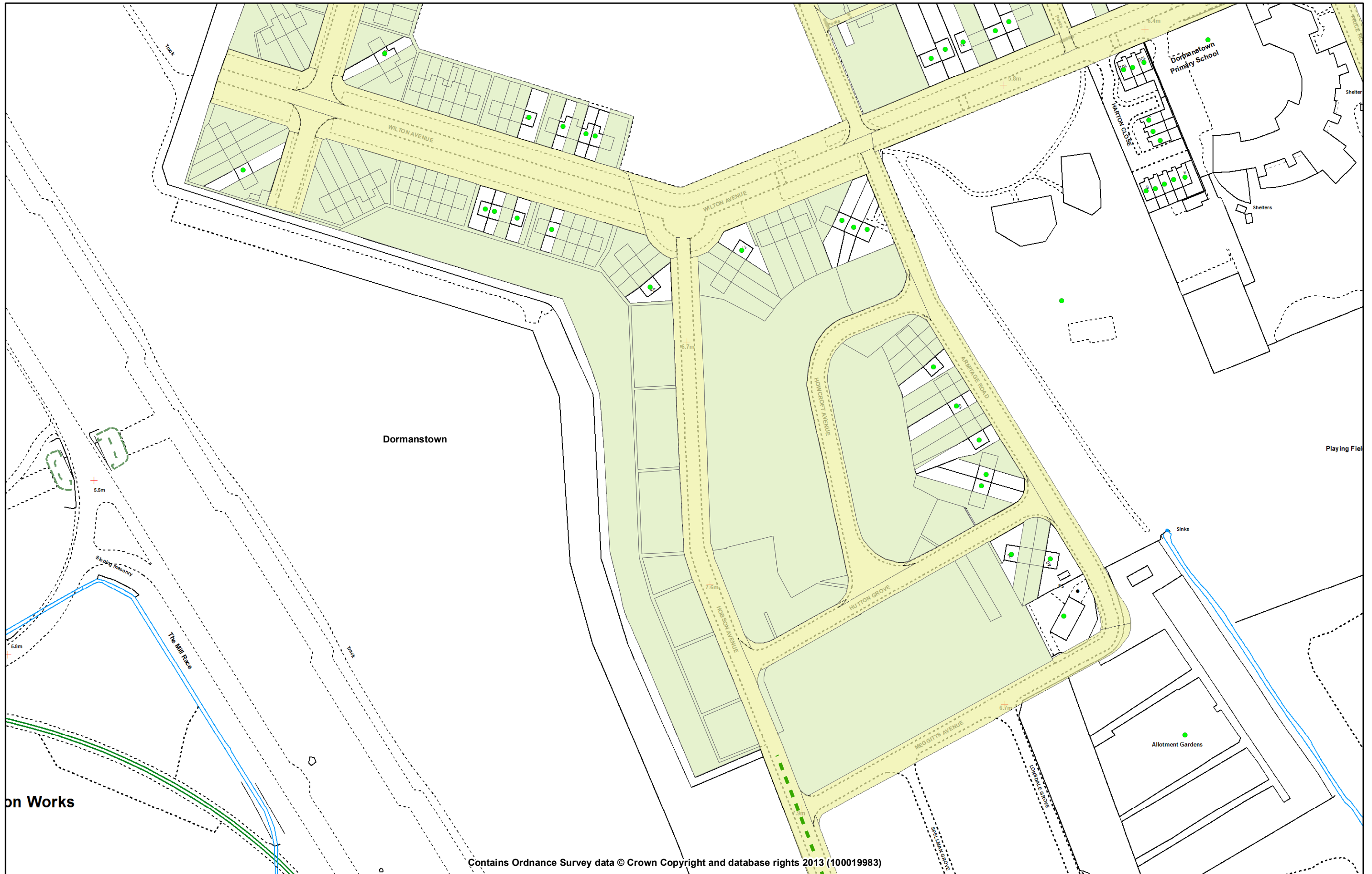
A copy of the signed/sealed undertaking is required before the Examination closes.

Response

A land ownership plan is submitted with this document. I am advised that the yellow denotes adopted highway and the pale green denotes land in Coast & Country Housing ownership.

The Authority sees no reason why this area could not be the subject of supplementary/enhanced planting subject to agreement together with environmental enhancement to the wider A1085 corridor and west Dormanstown area.

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LAND SOUTH OF WILTON AVENUE, DORMANSTOWN



Date: 23/10/2015 Drawn by: HO
 Scale = 1:1,500 DWG No: 001