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Date: 3 March 2021

Our ref: 61586/01/NW/JMa/19427018v2

Your ref: R/2020/0684/ESM and R/2020/0685/ESM

Dear David

R/2020/0684/ESM and R/2020/0685/ESM - Land at South Bank Wharf

We write further to the letter dated 5th February 2021 from PD Ports Ltd (PDP) setting out a number of comments on our client's planning applications for the development of a new quay at South Bank Wharf. PD Ports noted that, given the overlapping nature of the developments and the phased approach to demolition and construction, the comments provided are applicable to both applications. Likewise, please accept this letter as our acknowledgement of comments for both schemes as the issues raised are common to both applications.

Harbour Revision Order

The necessity to obtain a Harbour Revision Order to realign the statutory Harbour Authority jurisdiction boundary was acknowledged by the applicant from day one of the design process. However we do not agree with the opinion expressed by PD Ports that in order to ensure a HRO approval can be granted for the proposed works, both land side and the dredging proposals, it is necessary for HRO approval to be a pre-commencement condition of any works starting on the site. This would be inconsistent with the approach taken on the 2006 application by PD Teesport for their own Northern Gateway Container Terminal (Ref R/2006/0433/OO). No such condition was applied to that consent in recognition of the fact that the HRO process is entirely separate to the requirements of the Town and Country Planning Act; the approval of one is not contingent upon the other.

The current application submission has made clear that the new quay has been designed to be delivered in two separate phases. Our client is intending to commence phased construction of the facility during 2021 to enable the first section of the quay to be in operation by 2023. The submission makes clear that the Phase 1 would result in a quay length of up to 700m (450m operational) and that any decision to extend this up to the full 1,300m (585m operational) would be based on market demands. This is also the logical location for the first phase development being closest to the mouth of the River and, therefore, requiring less dredging. The delivery of Phase 2 will be determined by market demand and the success of the Phase 1. It is not, therefore, necessary to expect the HRO process to be undertaken for the entire 1,300 metres as this time. The logical approach would be to phase the HRO process in a similar manner to the planning application process and there is no impediment to such an approach being taken in this case.

Our clients have held numerous meetings with PDP in advance of the current applications being submitted to the Council. Indeed, discussions have been ongoing regarding the means by which a HRO should be progressed since June 2020 and a proposal is currently with PDP for handling the HRO variation.

Extant Legal Agreements

PD Ports note that there are extant legal agreements completed under the Tees and Hartlepool Port Authority Act 1966 contained within the red line boundary of both the applications and that the obligations in these agreements have not been noted in the application submission documents. Copies of these documents are being requested from PD Ports and will be reviewed once received.

Hazardous Working Protocol

Our client notes the potential existence of hazardous cargo moored on the riverside jetties at Teesport Estate and will ensure that safety considerations are fully understood. The need to secure an approved method of construction for work in the vicinity of these jetties can be secured via a suitably worded planning condition as part of a Construction Management Plan and through liaison with the Harbour Master.

Cumulative Impact

There is the suggestion in the PD Ports letter that insufficient consideration has been given to the cumulative impact of the proposed works alongside other permitted development, in particular the Northern Gateway Container Terminal, in terms of potential disruption and risks to safety for other river users. This is disputed and we would draw your attention to appendix 9 of the EIA which contains a Navigation Risk Assessment (NRA).

Our client commissioned Marine and Risk Consultants Ltd (Marico Marine) to undertake a Navigation Risk Assessment to assess the impact of the construction and operation of the development proposal to the existing navigation risk profile of the River Tees. The NRA was undertaken in accordance with the International Maritime Organisation's Formal Safety Assessment methodology informed by; stakeholder consultation feedback, AIS data analysis and historical incident data. In assessing the potential cumulative impacts, the Northern Gateway, York Potash and MGT Power projects were all considered to be operational to represent the worst case future development scenario.

The assessment considered the cumulative impact both the construction and operational phases and concluded that all impacts were assessed to be acceptable with all scoring negligible or low, with the exception of the impact on ship contact risk, which was assessed to be As Low As Reasonably Practicable, due to the reduction in overall channel width when vessels are alongside. This determination was driven by frequency due to the increased usage of berths in the lower reaches of the river by up to panamax sized vessels and informed by existing reported contact accident rates within the River Tees. On this basis the worst case cumulative impact scenario has been properly assessed and found to be acceptable.

Construction

During construction, PD Ports notes that there will be a need for detailed contamination recovery and debris containment plans and that a regular maintenance inspection regime will be required. Our client recognises the importance of ensuring that there is no release of contamination into the river as a consequence of the development proposals. Consequently we are proposing a pre-commencement planning condition requiring the preparation and submission of a Construction Management Plan (CEMP) which will ensure that construction and inspection regimes are agreed and enforced. This would be consistent with the approach taken in relation to the recent consent for the development of up to 418,000 square metres of B2 and B8

floorspace on the adjacent South Bank site (Application /2020/0357/OOM) and indeed PDP's own planning permission for Northern Gateway Container Terminal.

Drainage

The comments made by PD Ports in relation to drainage are noted. The application indicates that the ground level for the quay would be formed with crushed stone surfacing, with the exception of two heavy lift areas which would have a concrete surface. Surface water would drain through the crushed stone into the underlying material without the need for a formal drainage system. A drainage system would however be required on the concrete surfaced heavy lift areas. Such a system would capture surface water runoff from the heavy lift areas through a series of gullies. The collected water will be discharged into the Tees Estuary through the quay wall, via an interceptor. Agreement on this approach can be secured by means of a pre-commencement condition relating to surface water. The relevant application will be made for a Works Licence in due course but this is entirely unrelated to the determination of the planning application.

Welfare facilities are not proposed on the quay itself and hence there would therefore be no foul sewage generated as a result of the proposed scheme.

Access

PD Ports suggests that applicant has not demonstrated any understanding of traffic and transport movements, the assessment contained in the application only having regard to the adopted highway network and not the full route needed to access the development site boundary. It is noted that no request has been made to PD Ports for consent to use the private estate roads in order to access the development site and that there has been no consideration the traffic volumes within the Teesport Estate as a result of the available capacity for business growth following major investment schemes carried out at Tees Dock in recent years.

In terms of securing consent to use the private estate roads, the applicant already has an established right of access. In any event, Tees Dock Road is not the sole point of access to the development site as consent has already been secured for an alternative and primary access from Smiths Dock Road/Dockside Road.

The traffic and transport assessment within the ES has been supported by a detailed Transport Statement (TS). The TS includes details of the existing highway environment and the proposed schemes forecast traffic demand and assignment via the highway network. The Guidelines for the Environmental Assessment of Road Traffic (GEART) notes that increases in total traffic (or HGV component) of less than 10% are likely to lead to no discernible environmental impacts.. Since forecast traffic movements would be significantly less than 10% no discernible environmental impacts are predicted and the impact is therefore assessed as of negligible significance.

It is important to note that the proposed quay will operate in conjunction with the 418,000 square metres of new floorspace at the South Industrial Zone for which planning permission was granted in 2020. The Environmental Statement which accompanied that application included a detailed assessment of the potential operational phase impacts on traffic and transport. It identified that when fully operational, there could be up to 3,870 employees at the site. The traffic movements associated with this site is now fully consented and cannot be revisited through the quay applications. Current forecasts are that to operate the new quay will require only around 10 employees. The impact of these additional 10 employees on operational traffic is therefore clearly negligible.

Flooding

PD Ports comment that an investigation is underway into the cause of floodwater egressing the Teesworks site onto the A1053 causing traffic disruption to the A66 and beyond and suggest that the applicant should

be addressing this, in conjunction with the Councils Highways Engineers. This matter is entirely unrelated to the two planning applications currently under consideration and consequently is not considered further in this submission.

Restriction to Off Shore Marine Energy Facilities

PD Teesport concludes by expressing support for the use of the South Bank site for the development of a facility for the offshore marine energy sector, but expresses concern about the use of the site as a general industrial estate or port facility. This comment fails to acknowledge that the application site lies within the South Industrial Zone which is identified within the STDC Masterplan for port related uses, offshore energy industries, materials processing and manufacturing and energy generation. The application makes clear that the proposed quay is required to directly support the economic regeneration plans being progressed by STDC within the Tees Valley region, including the recent consent for the development of up to 418,000 square metres of general industry and storage and distribution facilities with office accommodation. The current applications seek to provide a new quay immediately adjacent to this consented site and the purpose of the new quay is to facilitate the transportation of goods and materials to and from the South Bank development site by ship. The design life of the new quay will be at least 50 years; as such it is not appropriate to restrict the quay to certain products or uses, rather the facility must be able to adapt and change over time to market requirements. In this context any suggestion that the Council should take steps to restrict the use of this site and the associated quay to the use for off-shore marine energy facilities cannot be justified.

Conclusion

We trust that this letter covers to your satisfaction all the points raised by PD Ports in their recent submission. If there are any matters on which you feel you need further clarification then please do not hesitate to contact me.

Yours sincerely



Justine Matchett
Planning Director

Copy Michael McConnell, PD Ports