

## **SOUTH TEES DEVELOPMENT CORPORATION**

### **NET ZERO TEESSIDE DEVELOPMENT CONSENT ORDER**

#### **WRITTEN REPRESENTATION**

##### **1 Introduction**

- 1.1 Further to South Tees Development Corporation's (**STDC**) relevant representation [RR-035] which provides a background to STDC at sections 2 and 3, this Written Representation is submitted by STDC on behalf of STDC, Tees Valley Combined Authority and Teesworks Limited to update the Examining Authority on the status of STDC's key concerns.
- 1.2 STDC maintains its in-principle support of the Net Zero Teesside proposals (the **Project**), however STDC continues to **object** to the proposals in their current form, in light of their unacceptable impact on STDC interests.

##### **2 Executive summary**

- 2.1 In summary, the reasons for STDC's objection are as follows:

- 2.1.1 **Option Agreement** – An agreement has not yet been reached and STDC is concerned that compulsory acquisition powers remain in the draft Order without any controls.
- 2.1.2 **Construction access from Redcar Bulk Terminal** – STDC is open to the Applicants making use of certain plots, provided that use does not hinder planned development of the Teesworks site, if for example, STDC required an access road to be relocated to facilitate its development.
- 2.1.3 **Construction Access from Tees Dock Road** – STDC understands that this land is being removed from the scope of the draft Order, but this has not yet been reflected in the draft Order.
- 2.1.4 **Temporary land for pipeline stringing** – STDC understands that these areas are being removed from the scope of the draft Order but the latest documents are yet to reflect this.
- 2.1.5 **Temporary land for construction / laydown** – STDC does not accept sterilisation of its land within the Freeport (much of which benefits from outline planning permission), and notes particularly that an off-site park and ride solution is being developed.
- 2.1.6 **Outfall alignment** – STDC disagrees with the proposed outfall alignment as this land is required for future development. An alternative alignment should be adopted.
- 2.1.7 **Corridors for other utilities, services and access** – STDC is concerned that these corridors are variously too wide and / or the current alignments impede other

development. More progress needs to be made by the Applicants on the easement agreements, which currently sit outside the scope of the main option agreement being negotiated between the parties.

- 2.1.8 **Private wire network** – STDC continues to object to the proposals until the Applicants identify a workable and acceptable solution.
- 2.1.9 **Remediation** – No formal agreement exists between the parties permitting STDC to carry out remediation works.
- 2.1.10 **Interface agreement** – No agreement exists between the parties governing the relationship between STDC's development proposals and those of the Applicants.
- 2.1.11 **Draft DCO** – STDC has comments on the requirements, protective provisions and DCO articles which are yet to be resolved by the Applicants.
- 2.1.12 **Environmental impact** – STDC is concerned with the Applicants handling of tunnel arisings and traffic.

### **3 Compulsory acquisition of STDC land**

#### Option Agreement

- 3.1 STDC continues to engage with the Applicants on entering into an option agreement for a lease for the Power, Capture and Compression (PCC) site. Since STDC is an in-principle supporter of the Project, it has always been open to entering into a voluntary agreement with the Applicants for the interests required for the Project.
- 3.2 In view of this, and given the unique status of the Teesworks site, STDC does not believe that compulsory acquisition powers are required, necessary nor appropriate.
- 3.3 The Examining Authority will note that the Applicants are seeking to agree a lease rather than acquire a freehold interest from STDC, which would not be capable of being granted by way of “full” permanent compulsory acquisition powers in any event.
- 3.4 STDC maintains that the use of compulsory acquisition powers should be restricted over its land, which includes sites which STDC is bringing forward for other developments of national economic importance. STDC requires any interests in its land to be acquired only by agreement with STDC. This reasonable request, which can be secured by a precedented amendment to the draft protective provisions (see further below at paragraph 5.5.4) would protect STDC’s interests from the unacceptable effects of the Applicants’ compulsory acquisition, should the Applicant and STDC fail to conclude voluntary agreements by the end of examination.

#### Construction access from Redcar Bulk Terminal - Plots 290, 291, 298, 299

- 3.5 STDC notes that these plots continue to be included within the Order limits to secure a route from Redcar Bulk Terminal (RBT) to the Applicants’ proposed PCC site. STDC recognise the need for a means of access from RBT.
- 3.6 These plots form part of the Teesside Freeport and some fall within land benefitting from outline planning permission for B2 and B8 (business / industrial) use, granted to STDC (see the overlay plan at **Appendix 1**). As matters stand, there is a risk that significant economic benefits of the Freeport will not be fully realised if the Applicants are permitted to potentially sterilise these plots. The plots in question form part of site in which a development of national economic importance is being brought forward.
- 3.7 In the interests of assisting the Applicants, should this access be available during the period of construction, STDC is content for it to be used. However, the Freeport site is subject to other development proposals and planning permissions. If the access along these plots is no longer available, STDC requires the Applicants to make use of an alternative access to the main site rather than taking powers which sterilise the Freeport. This “lift and shift” mechanism is already in place to regulate RBT’s use of this access route.
- 3.8 STDC require the DCO, either via the protective provisions or a requirement, to make provision for this necessary control on the use of the Teeswork site for construction access.

#### Construction access from Tees Dock Road - Plots 274 and 279

- 3.9 The proposed Tees Dock Road access is not acceptable to STDC because it would not be compatible with future redevelopment plans for the Teesworks site.
- 3.10 Following discussions with the Applicants, STDC understands that the Applicants have agreed to use an alternative route for construction access to the Teesworks site – Lackenby Gatehouse – which avoids the need to use the Tees Dock Road access. STDC had made clear there was an alternative route in STDC's ownership which the Applicants should have used, and now welcomes the Applicants' agreement to use that route.
- 3.11 The alternative route is set out on the appended plans at **Appendix 2** to this Written Representation.
- 3.12 STDC notes from the Deadline 1 Statement of Common Ground (SoCG) [**REP1-007**] that the Applicants state that any alternative route would have to be secured by voluntary agreement. Irrespective of any agreements, STDC requires the Applicants to amend the Order Limits to include this alternative route, and to remove plots 274 and 279 from the scope of the draft Order limits.

#### Temporary land for pipeline stringing - Plots 290, 291, 298, 299, 309

- 3.13 STDC understands from discussions with the Applicants that part of this area can be reduced as it is no longer required for pipeline stringing, which STDC understands was the specific activity contemplated by Work No. 9A (laydown) in this area. This was acknowledged in the SoCG between the parties submitted at Deadline 1 [**REP1-007**]. STDC needs to understand the extent of the reduction and requests an amendment to be put forward to the draft Order and supporting plans by the Applicants at the earliest opportunity.

#### Temporary land for construction / laydown - Plots 292, 293, 295

- 3.14 STDC considers that more temporary land has been included in the proposals than necessary and require this area to be removed from the Order Limits. In particular, it should be noted that:
  - 3.14.1 STDC is developing a park and ride solution for the Applicants' employees accessing the Teesworks site – but notwithstanding this matter, the extent of land is considered by STDC to be far more than is necessary;
  - 3.14.2 in negotiations with the Applicants on the scope and extent of option agreement, it has been evident that the Applicants do not require the extent of temporary land currently contained in the Order Limits.
- 3.15 STDC notes from the SoCG [**REP1-007**] that the Applicants have confirmed this area of land can be reduced. STDC needs to understand the extent of the reduction and requests and amendment to the draft Order and supporting plans at the earliest opportunity.
- 3.16 STDC does not believe that it is reasonable for the Applicants to sterilise Freeport land which has time limited benefits. The plan enclosed at **Appendix 1** identifies the areas of Freeport

overlap to assist the Examining Authority in understanding how STDC's Freeport and other development land benefitting from planning permission risks being sterilised.

Outfall alignment – Plots 297, 304, 306, 307, 308, 310, 311, 312, 326

- 3.17 STDC does not agree to the current route of the outfall forming Work No. 5A due to sterilisation of future development on that land, known as the Foundry (see **Appendix 1**). STDC is currently in detailed discussions for development on this land, representing a significant national economic growth project and the Project risks impacting those discussions.
- 3.18 STDC has not yet agreed to an alternative design and route of the pipework for the outfall and require discussions on this, including which party will undertake the works. STDC understands that the Applicants are carrying out a survey to consider the feasibility of an alternative solution. STDC requires the Applicants to expedite their survey so that this matter can be resolved within the examination period.
- 3.19 If the Applicants are unable to progress a survey and alternative design and route for the outfall, STDC requires suitable protection via the draft Order to ensure that its own development proposals are not stymied by the Project.

Other corridor alignments for utilities / services and access

- 3.20 STDC can confirm that the following matters form part of the draft option agreement currently being negotiated with the Applicants: raw water supply (Work No. 4); potable water supply (Work No. 4); outfall (Work No. 5); sewerage (Work No. 10); site access (Work No. 10).
- 3.21 However, STDC requires the Applicants to enter into separate option agreements for easements for the CO2 pipelines (Work Nos. 6 and 8), electricity lines (Work No. 3) and gas pipeline (Work No. 2) connections running through Teesworks. Those matters fall outside the PCC option agreement and no draft easement agreements have been received by STDC.
- 3.22 Without voluntary agreements being entered into there is a significant risk that the Applicants will acquire, via compulsory acquisition powers, rights and interests over STDC land which disrupt future development proposals by sterilising land. STDC strongly encourages the Applicants to engage on the agreements for easements falling outside the scope of the current option agreement. Notwithstanding progression of these agreements, STDC will still require controls in the draft Order over the use of compulsory acquisition powers, via the protective provisions, to protect STDC's interests.
- 3.23 STDC has the following particular concerns as regards the utilities and services listed in paragraphs 3.20 and 3.21 above:
  - 3.23.1 STDC considers that the Applicants' Order Limits contain wider utility corridors than are required or justifiable, which appears to be evident from negotiations on the detailed terms of the PCC option agreement;
  - 3.23.2 STDC also understands that the Applicants are seeking exclusive corridors, some of which would overlap with and sterilise STDC's own existing utilities corridors – this is not acceptable to STDC. Furthermore, STDC is concerned that the Applicants

appear to be taking up available capacity on existing rail bridges for the routing of utilities, which could prevent other developments coming forward until new crossing rights have been sought from Network Rail. This outcome would not be acceptable to STDC.

- 3.23.3 The proposals risk sterilising other developments that are coming forward on the Teesworks site. STDC would highlight in particular the location of the proposed water supply (Work No. 4) and temporary access route (Work No. 10) which cut through the middle of the Long Acres site, for which outline planning permission has been obtained (see **Appendix 1**).
- 3.24 STDC's response to the Examining Authority's first written questions provides more detail on these concerns, and the specific plots engaged.
- 3.25 STDC is willing to provide the necessary easements for services and access, provided that the connection route and extent of the corridors are agreed, and the corridors do not prejudice current or future services required by other developments on the Teesworks site. As with the Redcar Bulk Terminal access, the use of any corridor permitted by the draft Order must be conditional upon the potential for the routes of access or service corridors to change as a result of other developments and permissions on the Teesworks site.

#### **4 Works on STDC land**

##### Impact on private wire network

- 4.1 STDC is working with the Applicants to reach an agreement on the 66kV Parallel Path. Details are not yet finalised or agreed. STDC notes that the Applicants are seeking to reach an agreement by July 2022, which STDC welcomes.
- 4.2 No agreement on this matter has been reached and without resolution, there continues to be an unacceptable risk to STDC's private wire network, which is used by its tenants. STDC requires controls in the protective provisions or DCO requirements if no agreement can be reached.
- 4.3 STDC encourages the Applicants to progress this matter as a priority.

##### Remediation agreement

- 4.4 STDC has prepared and submitted a planning application for a remediation scheme, having obtained Prior Approval for the demolition of buildings within and adjacent to the DCO site. However, no formal contractual agreement is in place between the parties to permit STDC to carry out the remediation works on behalf of the Applicants, which is a precursor to STDC undertaking any such works. STDC encourages the Applicants to progress agreement with it in order to secure these works. A plan of the proposed remediation works (to which Prior Approval relates) at the site is at **Appendix 3**.

##### Interface agreement

- 4.5 South Tees Area Supplementary Planning Document (SPD) is a material planning consideration in the determination of planning applications within Teesworks. A central tenet of the SPD is to develop the area in a way that maximises its regeneration potential through a co-ordinated and coherent approach to delivering infrastructure and business accommodation,
- 4.6 The SPD states “...development that has the potential to stymie or prevent further phases of development, or to reduce the market demand for land to be taken up, and / or to adversely affect the ability to provide infrastructure essential to the delivery of later phases of development / occupation, will be resisted.”
- 4.7 STDC notes from the D1 SoCG [REP1-007] that the Applicants agree that an integrated programme of construction works is needed. In light of the scale of the Applicants’ proposals, and the proposals of STDC in the area, STDC encourages the Applicants to enter into such an agreement with it. To date, STDC has not received any draft agreement relating to the interface between the Applicants and STDC’s proposals.
- 4.8 Without such an agreement being in place, there is a risk that STDC’s own proposals of major economic importance will be at risk, that STDC (in its remit as a Mayoral Development Corporation) would not fulfil its object of bringing about the more effective use of land (under Section 206 of the 2011 Localism Act), and create conflict with the SPD which seeks to resist development that would stymie further development in the STDC area. As matters stand STDC requires appropriate controls in the draft Order via the protective provisions or requirements to protect STDC’s own development programme.
- 4.9 The plan at **Appendix 1** identifies the Applicants’ proposed Order limits overlaid with the STDC areas subject to outline planning permission for B2 and B8 (business / industrial) uses and offices (totalling over 666,000sqm / 7.1million sqft on these three sites, termed Foundry, Long Acres and Steel House), and the Freeport. STDC hopes that this plan clarifies to the Examining Authority the extent of overlap between the Project and STDC’s own development proposals. STDC require the DCO to contain sufficient controls to protect STDC’s interests from compulsory acquisition.

## **5 DCO comments**

### Schedule 2 Requirements

- 5.1 The Applicants have already agreed to STDC having a consultee role on the following requirements:
  - 5.1.1 Requirement no. 11: Surface and foul water drainage
  - 5.1.2 Requirement no. 12: Flood risk mitigation
  - 5.1.3 Requirement no. 13: Contaminated land and groundwater
  - 5.1.4 Requirement no. 16: Construction environmental management plan
  - 5.1.5 Requirement no. 18: Construction traffic management plan

- 5.1.6 Requirement no.19: Construction workers travel plan
- 5.1.7 Requirement no. 23: Piling and penetrative foundation design
- 5.1.8 Requirement no. 24: Waste management on site – construction wastes
- 5.2 This responded to STDC's Relevant Representation [RR-035] at paragraph 5.7, which set out a non-exhaustive list of requirements of relevance to STDC. Following further consideration of the impacts of the Project on STDC's interests, STDC now considers that it should have an **approval** function under these requirements. This is considered to be appropriate given the unique statutory status and functions of STDC as a mayoral development corporation.
- 5.3 In addition to the requirements listed above, STDC is also now seeking an approval role over the following:
  - 5.3.1 Requirement no. 3 – Detailed design
  - 5.3.2 Requirement no. 4 – Landscaping and biodiversity protection management and enhancement
  - 5.3.3 Requirement no. 7 – Highway accesses
  - 5.3.4 Requirement no. 8 – Means of enclosure
  - 5.3.5 Requirement no. 25 – Restoration of land used temporarily for construction
- 5.4 STDC considers that these requirements directly relate to its interests, as each of these areas risks impacting STDC's future development proposals.

#### Protective Provisions

- 5.5 STDC considers the protective provisions inadequate in their current form. The Applicants make several references to the protective provisions in their response to STDC's Relevant Representation [REP1-045]. STDC has the following issues:
  - 5.5.1 The protective provisions are currently for the benefit of Teesworks Limited, rather than STDC. All STDC entities and any successors must receive the benefit of the protective provisions and it is unclear to STDC why the Applicants are yet to address this.
  - 5.5.2 The Applicants have sought to limit the protective provisions to the connection corridors only. This is unacceptable to STDC as its land is impacted by, and risks being sterilised by, a much wider part of the Project. STDC's interests include a major Freeport designation, as well as several major planning developments. The Applicants have failed to account for these aspects in their draft protective provisions.
  - 5.5.3 The Applicants are seeking compulsory acquisition powers over STDC land despite the fact that STDC is prepared to enter into voluntary agreements with the Applicants. The Applicants are pursuing a lease arrangement rather than an outright

acquisition, as would be authorised by the Order. STDC therefore requires that compulsory acquisition of STDC interests is controlled by STDC, in a reasonable and proportionate manner.

- 5.5.4 STDC is continuing to negotiate the protective provisions with the Applicants, but in the meantime STDC requests that the Examining Authority consider the below wording for insertion in the draft protective provisions. The Applicants have rejected these terms on the basis that they need to be able to rely on compulsory acquisition powers in order to implement the Project. STDC does not believe that this is a reasonable ground for rejecting a proportionate control over compulsory acquisition powers. Only this level of protection secures STDC's interests in its land, and preserves the future of STDC's own developments which will be impacted by compulsory powers.

*Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any interest in land or appropriate, acquire, extinguish or override any easement or other interest of Teesworks Limited (including by temporary possession) otherwise than by agreement.*

#### Article 2 "permitted preliminary works"

- 5.6 STDC remains concerned with the Applicants' use of "permitted preliminary works". The Applicants should clearly set out the works they will carry out on STDC land prior to discharge of requirements. The Examining Authority will note the wide terminology used by the Applicants, permitting them to carry out far more preliminary works than authorised by the Immingham Open Cycle Gas Turbine Order 2020. The permitted preliminary works are also not attached to specific works as per the Eggborough Gas Fired Generating Station Order 2018. The Applicants should clearly justify why wider powers than granted on other schemes are being sought.

#### Article 25 (2) Compulsory acquisition of rights etc.

- 5.7 STDC objects to the Applicants' power to transfer the benefit of the Order to unknown statutory undertakers. If the Applicants know at this stage that they will be transferring the benefit of compulsory acquisition powers to third parties, it is reasonable for STDC to require those parties to be named. Further justification needs to be provided by the Applicants on why this power is necessary and whether it is precedented.

#### Vertical limits of deviation

- 5.8 STDC notes that the Applicants continue to resist vertical limits of deviation for their utility corridors. The Applicants continue to seek compulsory acquisition powers across a large amount of STDC land. In order to avoid sterilisation of STDC land, particularly land earmarked for future development, STDC requires the Applicants to incorporate vertical limits of deviation into its draft Order. STDC does not consider this to be an onerous or unreasonable requirement, and there is precedent available to the Applicants, such as The Thurrock Flexible Generation Plant Development Consent Order 2022.

## **6 Environmental and policy related issues**

### Stockpiling of tunnel arisings

- 6.1 STDC has been requesting further detail on the estimated quantities of spoil likely to be produced by the tunnelling works, and their related storage and disposal arrangements. In their response to STDC's Relevant Representation [REP1-045], the Applicants seek to address this.
- 6.2 STDC notes the Applicants' Comments on STDC's Relevant Representations [REP1-045 at page 209] in respect of the stockpiling of spoil from construction activities. It is accepted that the extent of stockpiling will reduce as a result of the removal of the new build tunnel option. However, the Applicants' response is vague and provides no certainty, quantification or details of the amount, location, and duration of stockpiled material and its removal from site or re-use thereon. STDC's remit (Section 206 of the Localism Act 2011) is to facilitate the effective use of land. Without clarity on this matter, STDC remains concerned as to the Project's effective use of land and for it to ensure that land is not stymied from other economic development uses.

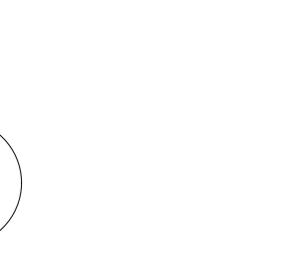
### Construction traffic assessment

- 6.3 As set out in STDC's relevant representation [RR-035] at para 6.12, "*There is no rationale for limiting HGV construction traffic to access / egress Teesworks via Tees Dock Road. There is no assessment of alternative access opportunities including an obvious alternative to Tees Dock Road: that being the use of the northern-most point of access into Teesworks at the main roundabout access from the Trunk Road (the 'Steel House roundabout access')*." STDC notes the Applicants' response [REP1-045 page 217] that it is examining the alternative of HGVs accessing the site via the Lackenby Gatehouse entrance off the A1085 Trunk Road. STDC welcomes this. It is an additional point of entry to Teesworks that is in the control of STDC and can be made available for HGV / construction vehicles associated with the Project. A plan of that route from Lackenby Gatehouse is enclosed at **Appendix 2**.
- 6.4 In the Applicant's assessment of traffic impacts arising from the Scheme's construction activities, there is no evidence of a severe impact on the highway network without mitigation being secured by way of access/egress from Tees Dock Road (plots 274 and 279). There is therefore no requirement for this access/egress to be made available and committed to being used through any Construction Traffic Management Plan (to be submitted in order to satisfy draft Requirement 18).
- 6.5 The Applicants' transport impact assessment should reassess impacts during the construction phase with scenario tests being undertaken that assume access/egress for HGVs from Lackenby Gatehouse and Steel House roundabout. As it stands, there is no evidential requirement for HGVs to be routed through the Tees Dock Road access, given availability of alternative points of access/egress from the public highway. It is, therefore, not necessary to acquire rights over 274 and 279 when alternatives exist.
- 6.6 STDC understand that the access route via Lackenby Gatehouse is now acceptable to the Applicants and so the relevant plots for the Tees Dock Road access can be removed from the scope of the draft Order, and replaced with the Lackenby Gatehouse access. As noted above,

STDC now expect to see amendments to the draft Order and plans to reflect the removal of this access.

- 6.7 The Applicants also are required to update their Transport Impact Assessments to account for the reasonable alternative for traffic identified by STDC.
- 6.8 As set out in STDC's relevant representation [RR-035] at para 6.15, STDC requires Chapter 16 to the Environmental Statement (ES) [APP-098] to be reviewed and updated to ensure that the correct number of vehicle movements is reflected. STDC understand the actual number of movements is closer to 1,500, as per the number of parking spaces required for park and ride.

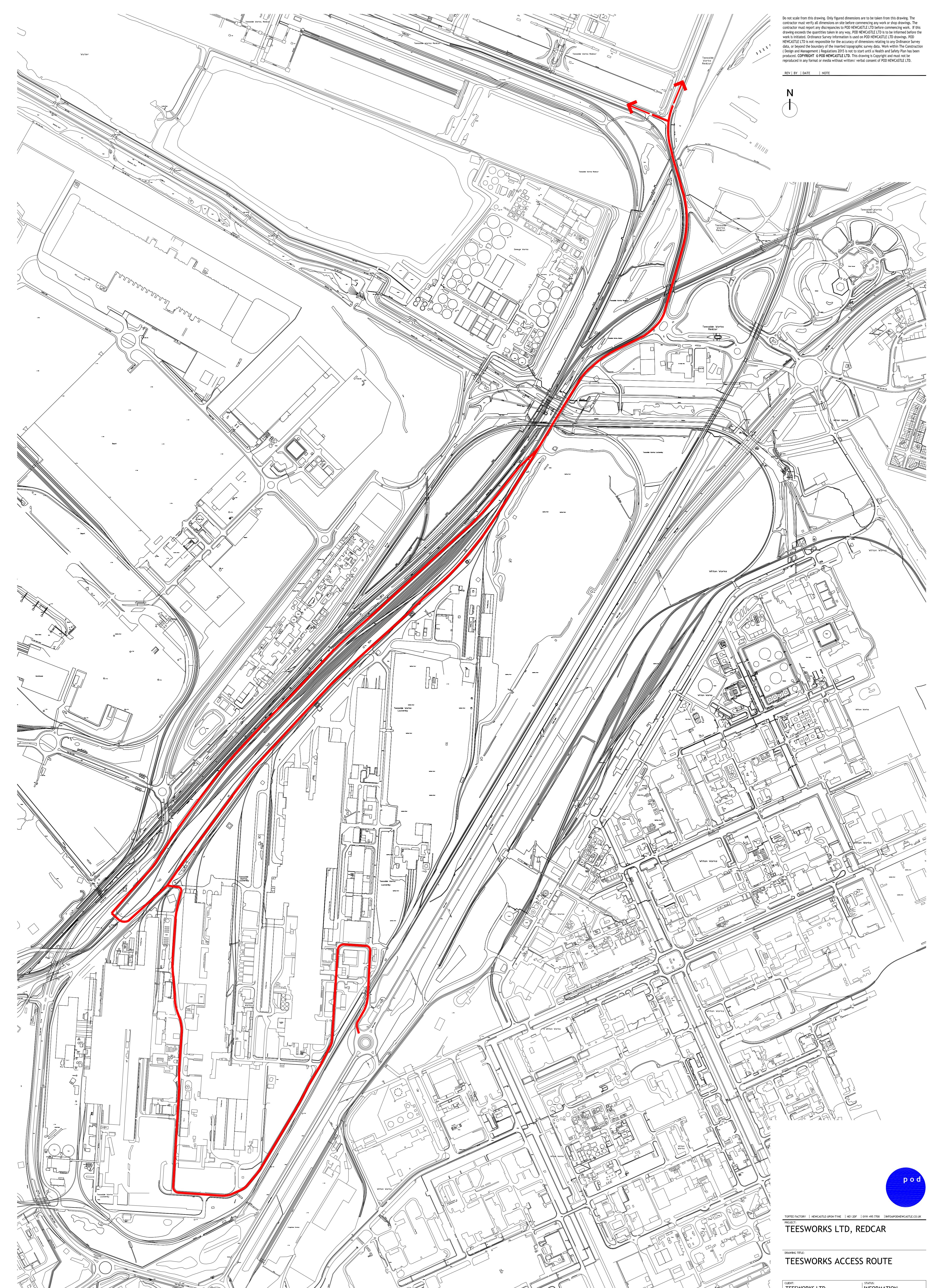
**APPENDIX 1**  
**OVERLAY PLAN**



- [Yellow Box] Teesworks Outline Planning Permission:  
Foundry, Long Acres, Steel House
- [Red Line] NZT DCO boundary
- [Blue Hatched Area] Freeport: Teesworks East Customs Site
- [Green Hatched Area] Freeport: Teesworks East Tax Zone
- [Orange Hatched Area] Freeport: Tees Dock Site

**APPENDIX 2**

**ALTERNATIVE ACCESS AT LACKENBY GATEHOUSE**



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PROJECT: TEESWORKS LTD, REDCAR

DRAWING TITLE: TEESWORKS ACCESS ROUTE

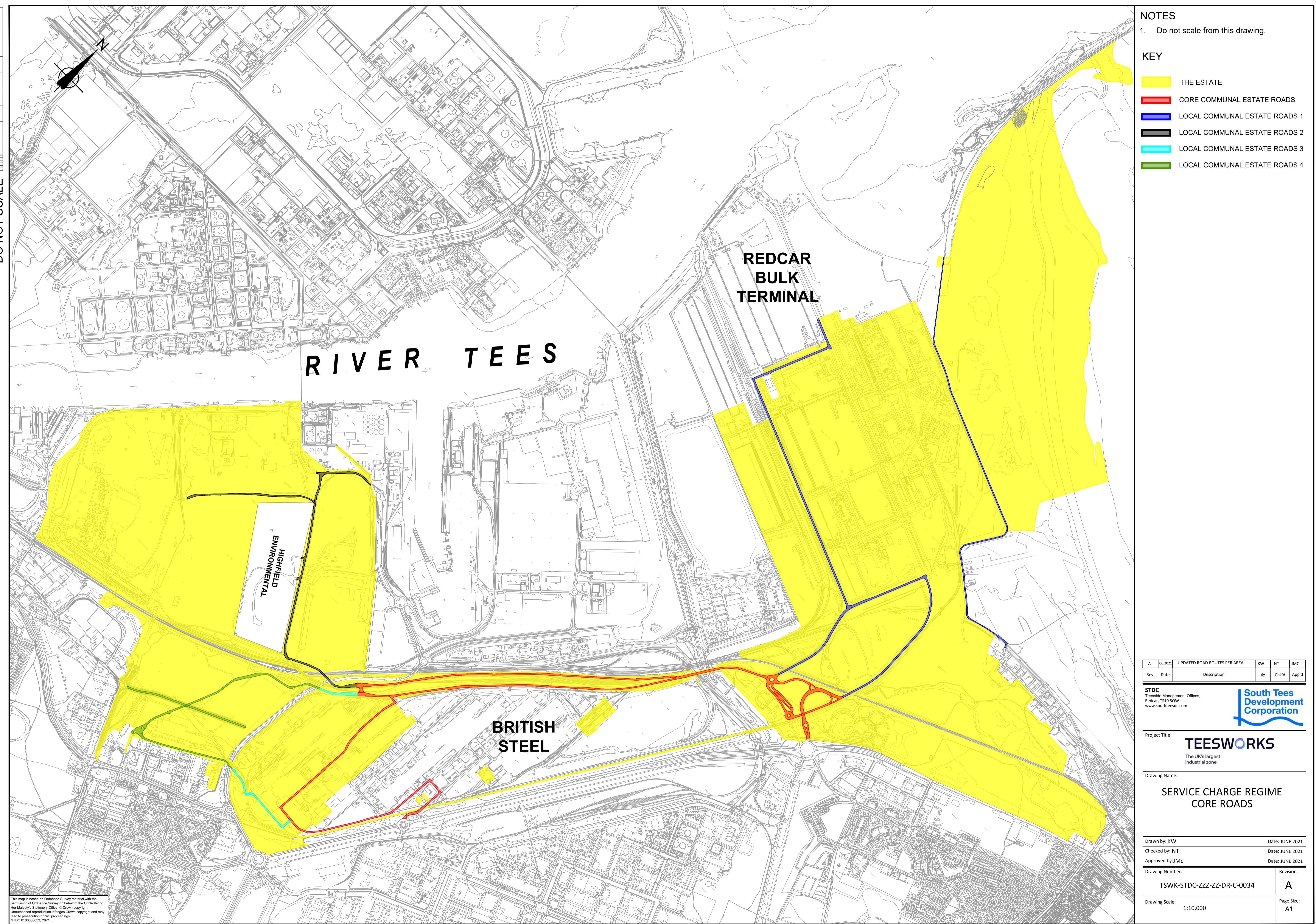
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SCALE: 1:5,000 SHEET SIZE: A1 DATE: 06/21 DWN BY: MEC CHECKED BY: MEC

PROJECT NO: 1401-TM DRAWING NO: SD-00.11 REVISION: -

KEY

TEESWORKS ACCESS ROUTE

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**APPENDIX 3**

**REMEDIATION PLAN**

