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17 February 2020

Dear Sirs,

OBJECTION TO THE SOUTH TEES DEVELOPMENT CORPORATION CPO 2019 ("The CPO")

Dear Sir

OBJECTION TO THE SOUTH TEES DEVELOPMENT CORPORATION CPO 2019 ("The CPO") Our Client PD Teesport Limited

We thank you for your e-mail of 12th February and note that due to the lateness of the submission the Inspector is treating it as a Representation.

Our client would wish to reaffirm to the Inspector that it has not been served with any Notice of the CPO by the Acquiring Authority.

To assist the Inspector with the background and his understanding of the Representation on the instructions of our client we would wish to bring the following to his attention:

No CPO Notices Served

During 2018 PD Teesport/PD Ports received various assurances from representatives of South Tees Development Corporation (STDC), including the written confirmation from the then Chief Executive Officer (Jonathan Bretherton) that "there is no land owned by PDP that we would propose to include in the order".

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On Thursday 11th April 2019 Ben Houchen, the Chair of STDC, wrote to PD Teesport and advised “The purpose of this letter is therefore to let you know that the formal notice will be served on you shortly but to reassure you that whilst this is a necessary part of the legal process that we are required to follow STDC do not intend to interfere with your continued occupation or to materially affect your day to day operations”.

No formal notice was ever served on our client, and our client had relied on the repeated reassurances that STDC did not intend to interfere with its occupation or operations.

Had any formal notice of a CPO been served on our client indicating what it now understands to be the extent of the proposed Order, our client would have immediately lodged its objection.

Our client has advised that on 5th March 2019, prior to receipt of the letter 11th April 2019 which confirmed that STDC did not intend to interfere with our clients occupation or day to day operations, it had requested copies of large scale plans to assist in understanding the extent of the STDC scheme. These were received on 23rd December 2019. Since then my client has requested evidence of any Notices which STDC may have purported to have served on our client following the letter of 11th April 2019. To date no evidence of the service of Notices or copies of Notices served has been received.

Importance of PD Teesport to securing Inward Investment

Our client has been in attendance at some of the Inquiry and is pleased to note that the importance of PD Teesport to the local, regional and national economy is acknowledged. My client would wish to draw to the attention of the Inspector that in recent years PD Teesport has attracted c£1 billion of direct private sector investment into Tees Valley, principally within what is now the constitutional boundary of STDC on the South Bank of the Tees.

PD Teesport as the Statutory Harbour Authority and owner of one of the largest Commercial Ports in the UK has successfully attracted considerable inward investment in the South Tees area through attracting external private sector investment onto its own privately owned land and property assets. Attracting this inward investment has not required public sector land assembly or control.

My client has successfully taken numerous major international investment decisions beyond a “heads of terms” stage to contractual commitment and financial close. My client is clear that uncertainty as to whether or not its interests may be potentially subjected to the threat or upheaval of a CPO acts as an impediment to securing that investment.

Clarification of Statements regarding PD Teesport Interests and the CPO

The Inspector will note the following paragraphs in the Proof of Evidence of David Allison on behalf of South Tees Development Corporation

3.17 – “PD Teesport, Redcar Bulk Terminal Limited (RBT), Sirius Minerals PLC and residential landowners have been removed from the Order.

Port access is incredibly important to the success of the regeneration, and as we are working in a collaborative partnership with PD Teesport, we excluded them from the Order land”.

Our client welcomes a collaborative partnership although is concerned that contrary to this statement, and other statements made on behalf of the Acquiring Authority, the proposed Order does currently include interests held by PD Teesport.

Human Rights Act 1998

Our client would wish to draw to the attention of the Inspector the provisions of the Human Rights Act 1998. The Act requires all public authorities, including any person/body whose functions are of a public nature, to act in accordance with the principles of the European Convention of Human Rights.

Our client does not believe STDC has acted properly and consistently in all proceedings and dealings relating to the proposed Compulsory Purchase Order. STDC did not notify our client of the intention to include any of its interests or rights in the CPO.

It may be that STDC did not understand the nature of the type of land and property interests which may be affected by the CPO. By way of example, we would draw to the attention of the Inspector paragraph 2.46 of the Proof of Evidence of John McNicholas. The first land and property interest mentioned that was to be subject to the order was “a. Private access road known as Breakwater South Gare”.

South Gare

As outlined in our letter of 11th February 2020, the acquisition/extinguishment of our client’s rights to access South Gare Breakwater would prevent the maintenance and operation of the Breakwater and navigation aids. The image attached as Appendix 1 may assist in understanding the operational function of South Gare. The consequences of not maintaining the Breakwater would be the closure of one of the largest Commercial Ports in the UK and tidal damage to land areas along the River Tees.

Our client has been trying to agree documentation with STDC regarding the access to South Gare. To date it has not been able to do this but continues to seek resolution. As a condition

of entering into any documentation, STDC has very recently sought to secure rights over our client's property interests which are currently outside of the area currently proposed by the Order. It has not provided any reason for now wishing to acquire yet further rights in relation to our client's interests over and above those already included in the proposed CPO

Due Diligence and Discussions on Land and Property Ownership

The inspector will note that in the Proof of Evidence from Michael King dated 20th January:

Paragraph 3.2 stated "My evidence primarily relates to the engagement and negotiations with all affected parties, including objectors, and the need for a Compulsory Purchase Order to assemble the land necessary to facilitate the scheme within this content".

Paragraph 6.5 further stated "Neil Thomas and Avison Young have led the communications and discussions with affected parties."

As outlined in our letter of 11th February, Paragraph 3.20 of the Statement of Case of STDC stated "there are a number of unregistered parcels of land that are in unknown ownership. STDC has endeavoured through diligent enquiries to identify the owners of these parcels without success.

Our letter of 11th February 2020 had previously highlighted the example of Plot 173. This is within the registered freehold ownership of our client, as is shown by red edging on the plan attached as Appendix 2. This freehold title includes approximately 310 metres of river frontage.

STDC was aware that our client is the freehold owner of a considerable area of land on the western end of the STDC constitutional area. A diligent enquiry would have revealed our client owns Plot 173. It is particularly surprising that STDC did not enquire as to whether our client owned this plot as various Officers at STDC were aware that our client was involved in property negotiations with another party relating to land in that immediate locality.

We would also wish to draw to the attention of the Inspector the fact that the South Tees Site Company has without the knowledge or consent of our client fenced off a large part of our clients land adjoining the Plot 173, placing the attached notice on the fence (see Appendix 3).

These actions would indicate that STDC may not have carried out diligent enquiries as to the extent of land and property ownership, and would also appear to either not be respecting ownership within its constitutional boundary or, has been making quite profound errors in relation to understanding the nature of such local land and property interests.

Access to and from Teesport and Bran Sands

The Inspector should be aware of the significant importance of road access in and out of the Teesport Estate and neighbouring Bran Sands. Unlike at other major UK Commercial Ports there is only one adopted highway in and out. If for any reason this highway was closed, the Port as well as major businesses and employers may close. This would have disastrous consequences not just for those businesses but also those on a regional, national and global economic platform served by the Port.

To mitigate against the potential closure of Tees Dock Road, vehicle access is provided through land outside the ownership of PD Teesport linking the Teesport Estate to the public highway as an alternative to Tees Dock Road. It is absolutely essential to the operation of the Port and businesses in neighbouring Bran Sands etc. that there is a viable alternative access to Tees Dock Road. The proposed Order would prevent this.

My client has been trying to engage with STDC on this issue, but to date STDC has suggested routes which simply would not work.

The Inspector will note in the evidence of John McNicholas he had advised there are approximately 40 bridges in the area in varying condition, and that STDC has recently commissioned a consultant to assess their condition. Additionally the evidence of Mr McNicholas referred to the potentially dangerous condition of, for example, the Coke Ovens.

To date STDC has advised it would offer one of two routes as an alternative access in the event that the Order is confirmed. One of these is currently closed seemingly because of health and safety issues relating to the condition of neighbouring buildings, whilst height restrictions due to bridges would prevent access for high sided vehicles in any event.

The other suggested route would take vehicular traffic back to bridges going over Tees Dock Road, i.e. bringing vehicles back to the locality of a potential incident. If, for example, the bridge going over Tees Dock Road was found to be unstable resulting in the closure of Tees Dock Road, or alternatively there was a fire/explosion on Tees Dock Road closing the bridge above it, the current STDC proposal would be to direct traffic back to the source of the problem.

Clearly those routes do not work, although they may do in the future following a period of redevelopment with the bridges which prevent high sided vehicles passing under them being removed, any dangerous buildings/ structures made safe etc. It may take a number of years to deliver these infrastructure works.

Our client has sought to work with STDC on this issue on the basis of there being a suitable alternative access route immediately available should the Order be confirmed. Our Client

has also confirmed it would accept that route being moved by STDC in the event that it was required for redevelopment purposes. The current position of STDC would however mean that there would not be a viable alternative access route in and out of Bran Sands and Teesport if the Order as drafted is approved. This could have considerable detrimental economic consequences for the businesses which use the Port and Bran Sands.

Our client would again state that it is supportive of wider redevelopment and regeneration in the geographical area of the proposed CPO, and would see this as complementary to the investment it continues to bring into the STDC constituency boundary. It appreciates the considerable scale of the undertaking which STDC has taken on, and is keen to work with STDC in delivering largescale regeneration. Our client does however remain concerned as to the nature of the process which has been entered into, the lack of engagement in relation to land and property rights and the potential detrimental consequences of what is currently proposed.

It is requested that the Inspector fully considers these matters in arriving at his decision, and requests that on this occasion my client is provided with a copy of this, addressed to:

PD Teesport Limited,
17-27 Queens Square,
Middlesbrough,
TS2 1AH

My client wishes to reserve its position in respect of any potential challenge under Section 23 of the Acquisition of Land Act 1981 or through any other route.

Yours faithfully
Jacksons Law Firm





Redcar by Ian Horner

KEEP OUT RISK OF DEATH

This is private property with many hazards to health and life including high voltage electricity, dangerous chemicals, harmful gases, unsafe structures and heavy goods vehicle and train movements.

Unlawful forced entry will be regarded as criminal activity and reported to Police. Cleveland Police will use wide-ranging powers to seize and impound vehicles and investigate those suspected of being on this site for unlawful or criminal purpose.

You are advised to keep out for your own safety and to avoid prosecution and property seizure.

Security contact number 07703912368



**South Tyneside
Council**

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