

**Localism Act 2011**

**Acquisition of Land Act 1981**

**Inquiry into:**

**THE SOUTH TEES DEVELOPMENT CORPORATION  
(LAND AT THE FORMER REDCAR STEEL WORKS, REDCAR)  
COMPULSORY PURCHASE ORDER 2019**

**Proof of Evidence**

**of**

**David Allison**

**On behalf of South Tees Development Corporation**



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## **1. INTRODUCTION**

### **Qualifications and Experience**

- 1.1 My name is David Allison and I am the Chief Executive Officer of South Tees Development Corporation (STDC). I have a First Class Honours degree in Applied Physics and Solid State Electronics and became a Chartered Electrical Engineer during my employment with ICI as Engineering Manager. I successfully completed the Institute of Directors Chartered Director programme whilst employed as Director of Business and Industry at the Regional Development Agency OneNorthEast. I joined STDC in October 2018 in the role of Commercial Director and was appointed to Chief Executive on 6<sup>th</sup> June 2019.
- 1.2 Prior to joining STDC, I have operated as Chairman, Chief Executive, Chief Operating Officer and Executive Director in a range of private and public sector organisations. As European Industrial Director for a range of top tier (Control of Major Accident Hazards) (COMAH) manufacturing sites across Europe, I was responsible for substantial reconfiguration of our manufacturing assets and sites. In the role of Director of Business and Industry for OneNorthEast, I was responsible for business start-up, growth, inward investment and science and technology across the region.
- 1.3 As Chairman of the North of England Inward Investment Agency, I led the combined efforts of the North East, North West and Yorkshire to secure globally mobile projects to the North of England. As a Board member of the Northern Accelerator Programme, I currently work with the Universities in the North East to identify and evaluate opportunities to create spin-out companies and licensing opportunities to grow the commercial agenda within our academic institutions.

### **Involvement with the Scheme**

- 1.4 As the Chief Executive Officer of STDC, I have overarching responsibility for managing both the Development Corporation and South Tees Site Company (STSC); a wholly owned subsidiary of the Department for Business, Energy and Industrial Strategy (BEIS), for which I am also the Chief Executive Officer.
- 1.5 Starting in February 2016, STDC commenced negotiations to acquire the two largest land portfolios within the Corporation's boundary, belonging to the most recent owners' representatives, Sahaviriya Steel Industries in Liquidation (SSI-IL) and TATA Steel. Contact was made with each of the landowners within the STDC boundary and meaningful negotiations continued, resulting in the private treaty acquisition of the TATA land in February 2019. Despite an offer being agreed in principle and a letter of intent exchanged to exclusively negotiate binding agreements with Krung Thai, Siam Commercial and Tisco Banks (the Thai Banks); negotiations stalled. A chronology

evidencing these agreements, including meetings held with STDC in Thailand are shown in Appendix 1. Further explanation of STDC's efforts to acquire land by negotiation is provided in the evidence of Michael King [STDC8/2].

- 1.6 With no realistic prospect of progressing negotiations with the Thai Banks due to the emergence of SSI-Thailand subsequent to a conversion of debt for shareholding agreement between SSI-Thailand and the Thai Banks, the decision to proceed with the CPO was made in March 2019. This was made in order to facilitate the comprehensive acquisition of the land necessary to deliver STDC's regeneration proposals and I had involvement in the preparation of the CPO; guiding the corporate governance and commercial aspects. Upon appointment to the Chief Executive role on 6<sup>th</sup> June 2019 I assumed the responsibility for the overall delivery of the CPO project and directing the project team and it's appointed professional staff in progression of this.
- 1.7 Of relevance to the matters under consideration in this Inquiry, on a day to day level, I am responsible for engaging with and influencing key stakeholders to ensure a synergistic approach is applied to the governance of the CPO process and wider regeneration requirements. I attend fortnightly CPO project meetings and all key meetings with STDC's advisors, through which I am kept informed of any progress being made to acquire land by negotiation. I oversee my colleagues who are actively involved in all negotiations with key landowners to continue to negotiate private treaty agreements. My relevant key priorities are to:
- develop supporting strategies to inform new site infrastructure;
  - proactively market the site and respond to Investor approaches;
  - provide financial assurances and to develop the supporting commercial requirements;
  - implement land remediation, preparation and new infrastructure development to respond to near-term investments and,
  - to acquire land and assets needed to facilitate the regeneration.
- 1.8 In order to ensure STDC can reach its full regeneration potential by fully engaging with national and international investors and markets, I have appointed Colliers International as intermediary agents to lead this. The evidence of John Knowles and Guy Gilfillan [STDC5 and STDC6] forms part of the case STDC presents in promoting the South Tees Development Corporation (Land at the former Redcar steelworks, Redcar) Compulsory Purchase Order 2019 (the Order).
- 1.9 Additionally, as STSC's Chief Executive, I have overall responsibility to ensure safe, secure and cost-effective on-going management of the former iron and steelworks'

ageing and hazardous infrastructure, which is subject to COMAH Upper Tier status. Working to a 'keep safe' strategy, STSC expend significant publically-funded costs in doing so and, in the public's interest, I have a key priority and responsibility to reduce the risks and associated costs of managing the infrastructure, as soon as is practicably possible.

- 1.10 Discussed later in section 2, the former iron and steel making infrastructure remaining on site following the closure of SSI, is in a poor and deteriorating condition and holds a significant quantity of hazardous substances. In order to reduce the inventory of hazardous materials left on site, government-funded projects to decontaminate and demolish particular elements began in March 2019.
- 1.11 During the execution of one of these projects within SSI-IL land, (currently under the control of the Official Receiver), on 19<sup>th</sup> September 2019 a fire occurred, resulting in the tragic death of two men on site and has left significant assets at risk of uncontrolled collapse. The Police and Health and Safety Executive are currently continuing their investigations into this major incident. I discuss this in more detail in section 2.
- 1.12 Following further considerable appraisal of associated risks and the implementation of any actions arising from the ongoing investigations, I anticipate that the programme to decontaminate the hazardous materials will continue. Prior to the incident occurring, it had been intended for STSC to transition into local governance; enabling synergies and simplicity of decommissioning and development of new infrastructure. Further due diligence will now be required to enable this to happen.

### **Scope of Evidence**

- 1.13 My evidence relates to the role of STDC in promoting the Order and should be read together with that of John McNicholas [STDC2], Gary Macdonald [STDC3], Anthony Greally [STDC4], Guy Gilfillan [STDC5], John Knowles [STDC6], Dan Aylward-Mills [STDC7] and Michael King [STDC8]; who together demonstrate that the scheme underlying the Order is compelling, deliverable and in the public interest to do so.
- 1.14 My evidence covers:
- A summary of the functions and objectives of STDC and STSC;
  - The relationship between STDC and Tees Valley Combined Authority (TVCA);
  - Background to the decision to make the Order;
  - A summary of STDC's approach to stakeholders;
  - Compliance with compulsory purchase policy; and

- My conclusions on the compelling case in the public interests for the making of the Order.

### **Terminology**

- 1.15 In my proof of evidence, references are made to the core documents, by the abbreviation, for example, "CD/1/1". Other proofs are referred to by their document number, for example "STDC1/1".

## 2. **SITE MANAGEMENT & ORGANISATION**

### **South Tees Development Corporation**

- 2.1 Having existed in a shadow capacity for approximately 18 months, STDC was formally launched by the Prime Minister in August 2017, as the third ever Mayoral Development Corporation in the UK and the first to be formed outside of London. It was created by the then Secretary of State for Communities and Local Government in August 2017, pursuant to section 198 of the 2011 Act, at the request of TVCA and was established by The South Tees Development Corporation (Establishment) Order 2017 (SI2017/718) [CD/B/3].
- 2.2 Organisationally, STDC is an arm of TVCA, reporting to the elected Mayor Ben Houchen, who chairs the STDC Board, of which I am a member. As Chief Executive of STDC, I report directly to the Mayor.
- 2.3 STDC was established as the special purpose public sector vehicle for delivering area-wide, transformational economic regeneration on South Tees, focusing on the promotion of the long term sustainable economic prosperity and commercial development of Tees Valley, by converting assets within its area (STDC Area) into opportunities for business investment and economic growth. Its establishment was borne out of one of the key recommendations of the Lord Heseltine endorsed report 'Tees Valley: Opportunity Unlimited' which was commissioned following closure of the SSI Steelworks on South Tees, in October 2015. The objectives of STDC are to:
- further the economic development and regeneration of the STDC Area, so that it becomes a major contributor to the Tees Valley economy and the delivery of the Tees Valley's Strategic Economic Plan;
  - attract private sector investment and secure new, additional, good quality jobs, accessible to the people of the Tees Valley;
  - transform and improve the working environment of the STDC Area, providing good quality, safe conditions for the workforce and wider community;
  - contribute to the delivery of the UK Industrial Strategy, by supporting the growth of internationally competitive industries with access to global markets, taking a comprehensive approach to redevelopment at a scale that enables the realisation of an international-level investment opportunity.
- 2.4 STDC and the programme it exists to deliver are of high prominence at UK Government level, and under the enabling legislation that established STDC, a range of powers were granted to STDC. It was agreed between TVCA and Redcar

and Cleveland Borough Council (RCBC), however, that RCBC would retain planning powers and continue to act as the Local Planning Authority for the STDC Area in respect of planning policy and development management, and in the processing of planning applications. Further details of STDC's role in the planning process are provided in the Proof of Evidence of Anthony Greally [STDC4].

- 2.5 Representing the largest single regeneration opportunity in the UK, STDC's regeneration programme will be pivotal in transforming the STDC Area into a national asset for new industry and enterprise, making a substantial contribution to the economic growth and prosperity of the region, including through the creation of thousands of employment opportunities as explained in the evidence of Dan Aylward-Mills [STDC7].

### **South Tees Site Company**

- 2.6 Immediately following the 2015 closure, the former SSI assets and landholdings were placed in the hands of the Official Receiver (OR). On 1 December 2016, STSC was established by HM Government Department for Business, Energy & Industrial Strategy (BEIS) and assumed responsibility for the safe management of the SSI-IL sites, through a management agreement with the OR. STSC is a wholly owned subsidiary of BEIS and has responsibility for the 'keep safe' and maintenance costs for the SSI-IL land.

### **Keep Safe**

- 2.7 When SSI entered liquidation, the production assets were not decommissioned in a structured, methodical manner. This has left material in tanks and vessels in the by-products plants and pipelines. In addition, there is historic material in some tanks from pre-liquidation days and in some areas, there is residue remaining in gullies and drainage systems. Much of the assets have been cannibalised over the years to effect repairs elsewhere and in certain areas little or no associated documentation was left on site upon closure. The overall result is that STSC and ultimately myself, are now responsible for a site with inherent safety, health and environmental challenges.
- 2.8 Given this perilous situation, 'do nothing' was not an option afforded to the UK Government following the closure of SSI. Following a programme of 'make safe' activities on the land immediately after the SSI closure to bring the plant and related assets to a controlled and safe stop; STSC was established to manage the 'keep safe' stage of site management. As CEO of STSC, I have overarching responsibility for managing this programme.



- 2.9 'Keep safe' has continued since STSC was established in December 2016 and is designed to maintain the site and assets in a safe condition until decommissioning/regeneration activity reduces the COMAH threshold. Even though operations have now ceased, over 5000T of residual by-products of the former industries classified as dangerous substances, remain on site and as such, the site is designated as an upper tier site under COMAH. Removal and incineration of these materials would be a significant task, with incineration costs alone estimated at £4.1m.
- 2.10 Current activities largely consist of routine inspection of redundant assets which covers around 400 individual structures, and a whole programme of HSE related safety process checks and preventative maintenance routines, carried out by the experienced and knowledgeable STSC employees. A Risk Register is maintained in order to identify and monitor risks and to prioritise activities through assessment of severity and probability. 114 retained employees carry out around 2500 routine keep safe activities per month and have a critical role in maintaining the safe operation of key safety systems across the site, including:
- the site wide coke oven gas main (COGM) containing deposits which are liable to ignite spontaneously on exposure to air and hazardous in their own right - nitrogen is used across the COGM to prevent risk of spontaneous combustion;
  - high and low voltage electrical systems providing electrical energy for onsite operations, as well as to other site occupiers;
  - effluent management and that of other potential contaminants across the site;
  - fire detection and suppression of the various structures across the site; and,
  - management of asbestos containing materials, present in a number of forms in numerous locations across the site.
- 2.11 Given the integrated nature of the industrial infrastructure, work also includes maintenance of certain infrastructure necessary for neighbouring organisations' current and future operations. These activities are in fulfilment of ongoing obligations under existing resource sharing agreements with these neighbours (British Steel, Redcar Bulk Terminal, Materials Processing Institute etc.), including requirements such as the provision of electricity, upkeep of roads, rail and bridges, manning of weighbridges and security for the extended site.
- 2.12 Site security is managed by the retained Security Manager, with security operations undertaken by Falck Fire Services (UK) Limited, under a framework agreement for the provision of Security, Medical and Rescue Services. Services provided include:

- provision of dedicated emergency medical technician service;
- 24/7 emergency standby rescue service;
- core security cover; and
- additional security cover for extracurricular events.

Agreed procedures are in place regarding dealing with intruders within structures by ring fencing the structure through a sophisticated network of remote monitoring equipment, complemented by security personnel.

### **Current State of Infrastructure**

- 2.13 Prior to liquidation in October 2015, SSI (UK) Ltd operated a 4 million tonne per annum integrated iron and steelmaking facility on Teesside. Included in the complex are two coke ovens and by-products plants, a coke oven gas pipeline/main (COGM) and a heavy fuel oil pipeline/main (HFO). As well as providing coke for the iron-making process the coke ovens produced coke oven gas (COG), which was used as fuel for the coke ovens and other on-site manufacturing assets, crude Benzole and Coal Tar, which was processed and sold as a by-product.
- 2.14 The coke ovens are situated approximately 8km apart and connected by the COGM. The COGM, which supplied the other non-operational manufacturing facilities and the on-site power station, is approximately 27km long and averages between 600mm and 1200mm, with approximately 7km of the pipe laid in underground sections. The HFO is around 9km in length and is mostly 150mm in diameter. All above-ground sections are held on an enclosing network of steel gantry's.
- 2.15 With an annual cost to keep the site safe under the COMAH status running at approximately £16m, BEIS has approved the funding for an 'Invest to Save' project valued at £49m, that will see the removal of all top tier COMAH materials from the South Bank Coke Oven by-products plant, the Coke Oven Gas Main, the Heavy Fuel Oil Main and storage tanks and the Redcar Coke Oven by-products plant. Funding agreed by BEIS covers the keep safe costs, and is discussed further within Gary Macdonald's proof [STDC3].
- 2.16 The initial £3.2m phase of the Invest to Save decontamination works commenced in April 2019 and is in the process of concluding. The subsequent phase of work is scheduled to commence in Q1 2020.
- 2.17 Successful completion of the project, programmed to March 2022, will see the annual 'keep safe' costs reduce, remove the site from COMAH status and support

the redevelopment of the site by STDC. By the time of the completion of the Invest to Save project, it is intended for STSC to have transitioned to local ownership; further reducing the ongoing financial burden UK Government have had to bear following the SSI closure.

- 2.18 Since the closure of SSI, UK Government has invested and approved an enormous amount of funding for the site, totalling £221m. This includes the Task Force, Make Safe, Keep Safe and ongoing STSC running costs through to the end of 2022, the Invest to Save programme and funding of early safety-led actions to remove particular assets from site that have deteriorated to a point where they are unsafe, or in a number of cases, of imminent collapse; identified as 'Tier 3' intervention projects, (Tier 1 = make safe, Tier 2 = keep safe).
- 2.19 As the site continues to deteriorate and STSC's understanding of the issues faced develops, the list of potential Tier 3 activities continues to grow. Some of these activities make economic sense by reducing ongoing keep safe costs, but the necessity to keep the site safe continues to drive commissioning of these works. Appendix 2 of my proof sets out details of Tier 3 projects
- 2.20 The perilous nature of the assets has been demonstrated by the ammonia towers adjacent to the former South Bank Coke Ovens, which on 19<sup>th</sup> September 2019, were the location of a fatal accident resulting in two men losing their lives following a fire during the initial Tier 3 decommissioning project. This demonstrates the hazardous nature of the materials left on site and the immediate need for intervention to address this situation.
- 2.21 Since the incident occurred, national resilience services and equipment have been employed to control the hazard and the potential for imminent collapse onto adjacent, equally hazardous, infrastructure. Measures have now been put in place to control this through STSC, further stretching public resources and will continue to do so potentially until October 2020, when a controlled demolition can be completed. This incident has effectively closed an area of approximately 50 acres of the site and sterilised much of the surrounding area from any activity, due to exclusion zones and stand-off distances surrounding the hazard. All but low risk survey and emergency works are restricted across the wider site, pending the outcome of the Investigation; restricting programmed STDC works and developments.
- 2.22 Should the site remain in fractured ownership, it would be reasonable to assume that any new developments adjacent to this existing decaying infrastructure would require similar exclusion zones to safeguard it from hazard. Normal operations are curtailed in conditions where wind is in excess of 40mph, due to the risks associated with loose cladding and building materials and other windblown debris.

- 2.23 The OR has progressed with the removal of floating assets in order to reduce the charge remaining upon SSI-IL's secured creditors. This has rendered much of the remaining infrastructure functionally obsolete and has reduced the net market value of the assets.

### **The STDC Area**

- 2.24 TVCA carried out a consultation on the proposal to create STDC in December 2016. The purpose of the consultation was to review and consider the objectives, powers, structure and boundary of the proposed development corporation. It formed part of the statutory requirements for establishing a Mayoral Development Corporation. In addition to the statutory consultees, TVCA undertook a wide consultation with all organisations likely to be directly affected. The consultation was publicly available on TVCA's website and closed on 10th March 2017.
- 2.25 All respondents supported the proposals for inclusion of the area of land set out in the consultation document. TATA Steel submitted a request to extend the boundary to include all of their land, and this was approved by the relevant stakeholders and approved by TVCA Cabinet in March 2017. No objections were received by any other landowners.

### **Relationship between STDC and TVCA**

- 2.26 TVCA was created in April 2016 with a purpose to drive economic growth and job creation in the area. A partnership of five authorities; Darlington, Hartlepool, Middlesbrough, Redcar and Cleveland and Stockton-on-Tees, it works closely with the Local Enterprise Partnership, wider business community and other partners to make local decisions to support the growth of the local economy. STDC sits wholly within the Borough of Redcar and Cleveland.
- 2.27 TVCA is chaired by its elected Mayor, Ben Houchen, who also chairs the STDC Board. STDC was established pursuant to the powers devolved to the Tees Valley Mayor under the Tees Valley Combined Authority (Functions) Order 2017. STDC's constitution reflects this statutory framework, and constitutes a direction to STDC pursuant to section 220 of the Localism Act 2011.
- 2.28 In support of its core objectives, STDC works collaboratively with TVCA, RCBC, the SSI Task Force and other partners to contribute positively to local and Tees Valley wide initiatives on skills, job opportunities for local people (including those directly and indirectly affected by the closure of the steelworks), inward investment, transport, sustainable development, the natural environment, culture and tourism.

- 2.29 STDC Board, along with its Chair and Vice-Chair, is appointed by TVCA and meets bi-monthly to consider matters related to the delivery of area wide transformational economic regeneration on South Tees and management of STDC. All decisions of STDC, unless otherwise delegated, shall be taken by the Board in accordance with arrangements set out within its Constitution. As Chief Executive of STDC, I have overall responsibility for STDC's operations and staff, and to act as lead adviser to the Board.
- 2.30 The Board is responsible for referring any decision or issue which it considers may result in a significant risk of a financial, statutory, environmental or criminal liability to TVCA, or to any or all of its Constituent Authorities ("a Referral Decision"), and shall refer such decisions or issues to TVCA for agreement before such liabilities arise, and prior to the implementation of any such decision.

### **STDC's Powers**

- 2.31 Under powers devolved to it upon creation of the Mayoral Development Corporation, subject to legislation, the Constitution and any other directions made by TVCA, STDC may do anything it considers appropriate for the purposes of its object or for purposes incidental to those purposes (section 201 of the Localism Act 2011).
- 2.32 Section 206 of the 2011 Act states that STDC may carry out or facilitate:
- regeneration or development land;
  - the more effective use of land;
  - provision of buildings or other land;
  - the acquisition, holding, improvement, management, reclaiming, repair or disposal of buildings, other land, plant, machinery;
  - the carrying out of building and other operations (including converting or demolishing buildings); and
  - the creation of an attractive environment.
- 2.33 The compulsory purchase powers of STDC are set out in section 207 of the 2011 Act. They provide that STDC may acquire land in its area or elsewhere by agreement or, on being authorised to do so by the Secretary of State, compulsorily. Part 1 of Schedule 2 to the Housing and Regeneration Act 2008 applies to the acquisition of land by STDC as it does to Homes England under that Act.

- 2.34 Section 207(4) of the 2011 Act provides that this acquisition power includes the power to acquire new rights over land. The process for compulsory purchase of land is set out in the 1981 Act (as amended by the Planning and Compulsory Purchase Act 2004).
- 2.35 Section 207(3) of the 2011 Act states that “an MDC must obtain consent of the Mayor of London before submitting a compulsory purchase order authorising an acquisition under subsection (2) to the Secretary of State for confirmation”. This was changed by Schedule 1 Article 11 of the Tees Valley Combined Authority (Functions) Order 2017 to read the “Combined Authority” rather than the “Mayor of London”.
- 2.36 The Mayor may only exercise these functions conferred on TVCA with TVCA’s agreement, and, constitutionally, if the TVCA Member for an authority whose council area contains any part of the area to be designated, consents to the exercise of the functions. Fundamentally the TVCA Cabinet and, constitutionally, the Leader of RCBC must give consent at a meeting of the Cabinet.
- 2.37 As previously stated, STDC was required to obtain the consent of TVCA before submitting the Order to the Secretary of State for confirmation (section 207(3) of the 2011 Act) and this was submitted to the March 2019 Cabinet for that purpose.
- 2.38 In exercising its compulsory purchase power, STDC had regard to the guidance entitled ‘Compulsory purchase process and the Crichel Down Rules’ (July 2019) (Guidance) [CD/C/3] in that a compulsory purchase order ‘should only be made where there is a compelling case in the public interest’ and that the purposes for which an order is made ‘sufficiently justify interfering with the human rights of those with an interest in the land affected’.
- 2.39 The Guidance does not provide any specific guidance on STDC’s power. STDC has however had regard to the guidance in section 4 of the Guidance on orders made by urban development corporations under the Local Government Planning and Land Act 1980.
- 2.40 My proof of evidence, the other proofs of evidence provided on behalf of STDC and STDC’s Statement of Case, all address how STDC has applied the above guidance in exercising its powers.
- 2.41 Collectively, the evidence submitted on behalf of STDC to this Inquiry demonstrates how, given the fragmented ownership within the constituted STDC Area, comprehensive land assembly is absolutely necessary to deliver cohesive regeneration of the area. Without the provision and availability of compulsory purchase powers, STDC would not be able to meet its objectives and deliver its vision for the large-scale regeneration of the STDC Area.

### 3. THE DECISION TO MAKE THE ORDER

#### Background and Chronology

- 3.1 A summary of the key milestones in the compulsory purchase process to date is set out below:
- 02/10/15 – SSI Closure;
  - 10/05/16 – Shadow Development Corporation established;
  - 12/10/16 – STSC established to manage and keep safe the SSI land;
  - 10/02/17 - Discussions commence with major landowners;
  - 07/4/17 – Formal Without Prejudice offer of 'gain share' delivery proposal made to Thai Banks;
  - 18/5/17 – Thai Banks reject gain share proposal due to timing uncertainties;
  - 01/07/17 - STDC formally launched;
  - 29/09/17 - STDC Board resolved to begin preparations for the making of a compulsory purchase order pursuant to sections 201 and 207 of the Localism Act 2011 and the Acquisition of Land Act 1981;
  - 29/11/17 - STDC Board updated on progress with private treaty negotiations and preparations for making a compulsory purchase order and resolved to appoint land referencing agents to confirm land interests;
  - 12/02/18 – STDC proposed an in-principle resolution to make a compulsory purchase order;
  - 25/07/18 – STDC resolved to proceed to make one or more compulsory purchase orders and to refer the consent to TVCA to submit the compulsory purchase orders, once made, to the Secretary of State for confirmation;
  - 26/09/18 – STDC endorsed the land area required for development;
  - 24/01/19 – TVCA Cabinet approved the funding for the land acquisition;
  - 15/03/19 – TVCA Cabinet consented to the submission of the Order to the Secretary of State for confirmation;
  - 11/04/19 – Order published and submitted to the Secretary of State; and
  - 24/09/19 – Statement of Case submitted to the Secretary of State.
- 3.2 On 2 October 2015, SSI went into liquidation and iron and steel production on the land ceased. The OR was appointed to manage the SSI assets and landholdings. The Royal Bank of Scotland Plc (RBS) holds a charge over the SSI land, in favour of three Thai banks – Siam Commercial Bank, TISCO and Krung Thai (the Thai Banks).
- 3.3 On 12 October 2016, STSC, a company established and wholly owned by Government, was formed to manage and keep safe the SSI land. A management

agreement signed by STSC and the OR allowed the OR, from 1 December 2016, to cease site management. Under the terms of that agreement, the Government funds the 'Keep Safe' costs which amount to approximately £44m to date and around £16m per annum going forward until a permanent solution is found for the SSI-IL land.

- 3.4 The closure of the former steelworks has had an enormous impact on the people and economy of the Tees Valley and in response, UK Government established STDC as a special purpose, public sector delivery vehicle to deliver a locally-governed regeneration programme of new industry and enterprise that will step-change the economic decline in the area and wider economic growth in the Tees Valley. Given the fragmented ownership within the constituted STDC boundary, borne of 170 years of iron and steel making operations and its multiple operators over that time; it was established that comprehensive land assembly will be a pre-requisite to delivering a cohesive regeneration of the area.
- 3.5 Section 201(2) of the 2011 Act explains that an MDC may “*do anything it considers appropriate for the purposes of its object*”, that being to secure the regeneration of its area.
- 3.6 Following its formal launch in August 2017, STDC published its first version of the South Tees Regeneration Master Plan [CD/F1/ and CD/F/2]. In tandem, the Local Planning Authority adopted its Local Plan and South Tees Area Supplementary Planning Document (SPD), in May 2018 [CD/D/3]. The Master Plan informed the vision, objectives and Development Principles of the SPD. As such, the Master Plan is a material planning consideration. It presents the vision and strategy for the transformational regeneration of the STDC Area and details new infrastructure requirements and the typology and phasing of the proposed development; compiled in part through early investor interest.
- 3.7 The Master Plan provides a long-term flexible framework of redevelopment for some 2,300 acres of land for industrial purposes and enhancement and management of a further 600 acres of environmentally-designated assets within the overall 4,500-acre footprint of the Corporation's constituted boundary. It was subject to a comprehensive public consultation exercise in 2017, where there was overwhelming support for the proposals. No objections were raised by landowners. The Master Plan is described in more detail in John McNicholas' Proof of Evidence [STDC2].

### **Engagement with Stakeholders and Landowners**

- 3.8 Prior to its formal launch, operating in its shadow capacity, STDC commenced communications with the major landowners, in an attempt to negotiate the required land assembly via private agreements, resulting in the subsequent acquisition of



over 1,400 acres of former TATA Steel land within the STDC Area, in February 2019.

- 3.9 As explained in detail in the evidence of Michael King [STDC8], STDC has, for nearly three years, been in negotiation with the Thai Banks. Despite the best efforts of STDC, a letter of intent signed and an offer having been made which, following independent advice is considered to represent above market value for the acquisition of the SSI land; these discussions have not been concluded. The chronology of interaction with the Thai Banks is shown in Appendix 1 of my proof.
- 3.10 Early discussions between the Shadow Development Corporation Board and the Thai Banks explored the benefits of a joint approach to delivery and gain share proposal, This unfortunately was rejected by the Thai Banks as they perceived the timescales and value to be uncertain. To date, notably, there have been no proposals to address any of the issues on site put forward from either the Thai Banks or SSI-IL's representatives. Bearing in mind the public interest and expenditure, this lack of consideration is particularly disappointing from a principal landowner.
- 3.11 Throughout 2019, STDC has invited SSI and the Thai Banks to enter into a Lands Tribunal contract in order to make strategic progress. This offer has been consistently ignored (see my Appendix 3).
- 3.12 The OR has been advised that it cannot sell the SSI land without the agreement of the Thai Banks, which has not been forthcoming. The Thai Banks could, if they wished, seek to sell the SSI land through exercising their power of sale pursuant to their charge, but this has not occurred. It transpires that a large part of the debt rehabilitation plan to the banks was to give the Thai Banks substantial shareholding in SSI. This has resulted in the banks giving the lead role in negotiating to SSI-Thailand preventing any meaningful progress to be made.
- 3.13 Mindful that a solution for the former SSI land needs to be reached and, despite agreements in principle being made for a deal; the subsequent slow progress in negotiations with the Thai Banks and SSI-Thailand provides little confidence to STDC that a negotiated agreement will be reached in a timely manner and as such, we have resolved to press on with the making of the Order, whilst continuing negotiation discussions with SSI-Thailand and the Thai Banks.
- 3.14 Since STDC has published its intent to progress with compulsory purchase, the Thai Banks and SSI-Thailand's legal representatives have repeatedly asked for more information, which has been provided, rather than use the time to engage in discussions or develop concrete proposals.

- 3.15 Since its formation, STDC has sought to create a working relationship with all key stakeholders, landowners and tenants, and entered into dialogue and/or negotiations commencing in Summer 2018 with all affected interests, including Sembcorp, British Steel (Greybull), RCBC, East Coat Slag Products Ltd (Tarmac), Civil & Marine (Hanson), Total Bolt Solutions Ltd, S & V Evershed, Network Rail and Green Lane Capital (N/E) Ltd. Negotiations are ongoing with all parties and agreements in principle have been reached with many. STDC expects in the majority of cases to agree terms upon which it can acquire the land interests it needs, conditional upon the Order being confirmed. All landowners and tenants within the Order land have been contacted in the lead up to making the Order, and further detail on communications and negotiations are included at length within Michael King's proof of evidence [STDC8].
- 3.16 Through forensic examination of the land area with STDC's engineering and property teams, I have sought to reduce the land acquisition as much as practicably possible; with only very small areas of neighbouring operating landowners now remaining that are required for new infrastructure as part of the comprehensive regeneration. These operators include Network Rail, RCBC, Sembcorp and British Steel (In Administration). The teams continues to communicate and progress negotiations with all landowners, with a view to securing agreement on the acquisition of land interests by private negotiation without the need for compulsory purchase. These negotiations will continue in tandem with the compulsory purchase process.
- 3.17 PD Teesport, Redcar Bulk Terminal Limited (RBT), Sirius Minerals Plc and residential landowners have been removed from the Order. PD Teesport continue to operate and develop their port and associated functions under their own Master Plan which align with STDC's regeneration objectives for the area. 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. Similarly, as a Development Memorandum of Understanding (MOU) has been signed with RBT, to form a joint-working regeneration partnership; in advance of making the Order, this party was also removed from the Order. STDC and Sirius Minerals Plc, in the form of The York Potash Project, have agreed to conclude negotiations on an MOU which recognises the parties' strategic alignment. I am satisfied that, jointly, our collaborative partnerships will deliver the regeneration aims for the scheme underlying the Order.
- 3.18 The Crown Estate is the reputed owner of areas adjacent to the South Bank Wharf and the beneficiary of certain rights to mines and minerals. The Crown Estate is also the beneficiary of various restrictive covenants across the land included in the Order. STDC is not authorised to acquire Crown interests pursuant to the Order and has

accordingly entered into dialogue with the Crown Estate since June 2018 with a view to acquiring any interests needed to deliver regeneration of the STDC Area by agreement.

- 3.19 There are a number of unregistered parcels of land which are in unknown ownership. STDC has endeavoured through diligent enquiries and posted Notices to identify the owners of these parcels without success. The parcels have therefore been included in the Order on the basis that the owners are unknown. Evidence of the notices being posted is held by STDC.
- 3.20 STDC has reviewed all of the land within its administrative boundary to ascertain the land interests required to practically deliver the comprehensive regeneration of the STDC Area, having regard to the need for the land to support the comprehensive redevelopment and the likelihood of strategic, complementary delivery by third parties. STDC is accordingly satisfied that all of the land in the Order is required for regeneration and this was endorsed by the STDC Board in September 2018.
- 3.21 Based on the discussions with stakeholders and landowners to date, and due to the many variants of ownership, approaches and timescales involved with each; I do not consider that the regeneration of the STDC Area can proceed without the intervention of STDC through use of its compulsory purchase powers. The significant burden on UK Government is not sustainable and STDC's intervention is therefore crucial to ensure that regeneration occurs, and in a timely manner.
- 3.22 As discussed in John McNicholas' Proof [STDC2], it is imperative that STDC gain comprehensive land assembly of the entire site to effectively be able to deliver the regeneration necessary. The Liverpool City Council (Paradise Street Development Area, Liverpool) Compulsory Purchase Order 2003, presented that the loss of any of the areas included in that order would place the scheme at very serious risk, if not be fatal to it. It continued that the scheme was too important and the public interest case for the development was too compelling to place it at risk for the sake of individual land ownerships. In determining the outcome of the order, the Secretary of State took the view that '*...piecemeal development over the years has failed to stem the decline [of the area]...*'.

### **Making the Order**

- 3.23 In summary, STDC seeks compulsorily to acquire land (coloured pink on the Order maps) and rights over land (colour blue on the Order maps) pursuant to the Order, pursuant to Section 207 of the 2011 Act. The purpose in making the Order is to acquire land for the purposes of carrying out STDC's function; namely to promote the economic growth and commercial development of Tees Valley by converting

assets in the STDC Area into opportunities for business investment and economic growth.

- 3.24 It is imperative that the hazardous and abundant infrastructure, with its significant keep safe costs and constraints to development, is addressed as a matter of urgency. Infrastructure is both unsightly and dangerous, catastrophically demonstrated by the fatal incident on 19<sup>th</sup> September 2019 when working to decommission parts of it. When combined with the fragmented nature of land ownership, it is a critical barrier to development.
- 3.25 As discussed earlier, UK Government have invested and committed funds totalling £221m to the keep the site safe and to reduce the hazardous inventory left following the SSI closure. It is evidently not sustainable for the Government to continue to fund these costs for the former SSI land indefinitely, at significant cost to national and local taxpayers and this alone demonstrates a compelling case in the public interest for the delivery of the scheme underlying the Order. Comprehensive ownership will allow STDC to decontaminate, remediate and regenerate the land in a cohesive, phased and, as discussed Gary Macdonald's proof [STDC3/2], in a sustainably funded manner.
- 3.26 Conversely, should the Order not be confirmed, I understand that it is likely that the OR will disclaim the SSI land, due to a lack of viable alternatives.
- 3.27 In order to achieve its objectives and vision, to bring a resolution to the fragmented nature of the site, and to deal with the legacy issues associated with its former uses; STDC resolved to proceed to make the Order and to refer the consent to TVCA to submit the Order to the Secretary of State for confirmation. Following discussions with TVCA regarding the fit of STDC's objectives and vision within the wider Tees Valley aims and objectives, TVCA Cabinet agreed to approve the funding for the land acquisition within their Investment Plan.
- 3.28 UK Government is fully supportive of the STDC regeneration scheme and has confirmed and publically announced it will provide £71m funding, discussed further within Gary Macdonald's Proof [STDC3].
- 3.29 TVCA Cabinet consented to the submission of the Order to the Secretary of State for confirmation in March 2019 and on 4<sup>th</sup> April, in the absence of a STDC Chief Executive being in post, the Tees Valley Mayor, Ben Houchen, authenticated STDC's seal on the Order, subsequently submitted to the Secretary of State for confirmation on 11<sup>th</sup> April 2019.

#### 4. **VISION**

- 4.1 The Master Plan (CD/F/1 and CD/F/2) sets out STDC's vision for the regeneration of the STDC Area, a vision which is reliant upon comprehensive control within the STDC boundary. The Master Plan is STDC's scheme for regeneration of its area (the Scheme). Bringing the land back under a single ownership, following the fragmentation created by the various closures of iron and steel works operations, presents a once in a generation chance to drive the local economy and realise an industrial renaissance in the Tees Valley.
- 4.2 In order to fulfil its objective of securing the regeneration of its area, under the direction of STDC's Board, STDC is seizing this opportunity to create a carefully chosen balance of major investors, cutting edge industry and supply-chain services that stretches out across the Tees Valley. The Scheme will enable the delivery of the comprehensive regeneration of under-utilised industrial, manufacturing and employment land. It will achieve the remediation of contaminated land, thereby contributing to the environmental wellbeing of the STDC Area, will bring about significant economic benefits, through job creation, and contribute to the social wellbeing of the STDC Area through creating the opportunity for prosperity.
- 4.3 UK Government has expressed its desire to maximise the trade benefits in a post-Brexit scenario. A fundamental element of this will be the creation of a series of Free Ports that will seek to simplify tariff arrangements and incentivise trade. There is strong indication that the STDC Area will be considered favourably in the forthcoming selection process. STDC's Master Plan ambitions would maximise the benefits of such a determination.
- 4.4 Dan Aylward-Mills' evidence [STDC7/2] explains that the benefits to the local and wider community and economy of the regeneration of the land in the Order proceeding will be considerable, not least through the creation of an estimated 20,000 new direct and indirect jobs. The focus for the Master Plan is on higher skilled sectors and occupations, centred on manufacturing innovation and advanced technologies and those industries best able to deliver sustained economic prosperity for the Tees Valley and its people, while realising a jobs spectrum that offers opportunities for all.
- 4.5 UK Government has recognised the growing strategic contribution and significant value to be gained from the provision of energy from offshore wind. This is evidenced by the Offshore Wind Sector Deal [www.gov.uk/government/publications/offshore-wind-sector-deal](https://www.gov.uk/government/publications/offshore-wind-sector-deal) announced by Energy and Clean Growth Minister, Claire Perry, on 7<sup>th</sup> March 2019.

- 4.6 A target has been set to increase UK content to 60% of spend which can only be achieved through UK based manufacturing and assembly operations in addition to existing operational and maintenance activities. The STDC Area is one of the very few sites in the UK with deep water access and industrial scale development land in close adjacency and is ideally sited geographically relative to Offshore Wind Industry developments e.g. Dogger Bank. The regeneration of the Order land is therefore of national significance in enabling Government strategy to be realised and so capture the economic benefits of the growing the offshore wind industry.
- 4.7 Working jointly with local authorities, the education sector, local training and development initiatives, STDC's redevelopment proposals will realise major opportunities for improving education attainment levels across the area and the skills base to provide greater access to employment; creating opportunities for upskilling and an increase in both the mean salary levels and Gross Value Added (GVA) for the Tees Valley economy in an area that has above the national average rate of unemployment.
- 4.8 The redevelopment of the STDC Area will bring back into positive use, unused and unsightly land and through continuing work with key environmental stakeholders; STDC will conserve and regulate access to significant and diverse areas of coastal land, safeguarding it for future generations. Capitalising on the significant increases in local employment afforded by the redevelopment of the STDC Area, will boost the visitor economy and will also help to revitalise town centres; delivering improved benefits for local communities.
- 4.9 Comprehensive remediation and regeneration of the STDC Area, as set out in the Master Plan, will take place over a 25-year programme. As explained in evidence of John McNicholas, John Knowles and Dan Aylward-Mills, [STDC2/2, STDC6/2, STDC7/2], such comprehensive redevelopment of the land and the benefits arising from that redevelopment will not be achieved through piecemeal development by individual landowners. Government-backed STDC is instead best placed to deliver redevelopment of the land and will do this through implementing a progressive, optimally phased delivery of demolition, site preparation and infrastructure across the STDC Area; aligned to development priorities and led by end user requirements.
- 4.10 The Order would not only enable comprehensive land assembly for STDC to deliver the subsequent development, but would also address restrictive land interests controlled by SSI-IL over land now owned by STDC. This land is currently sterilised for development due to these Interest options being in place until 2023. The restrictions associated with these land options are further discussed within John McNicholas' Proof [STDC2/2].

## **Delivering the Vision**

- 4.11 STDC is fully committed to delivering its objectives and the vision for comprehensive regeneration of the Order land in a phased approach to demolition, remediation and redevelopment. Development priorities will be led by end user interest and to ensure that no investment opportunities are lost, it is imperative that STDC has control of cohesive land parcels, sufficient to address market demand, scale and timeframes. Since acquiring the former TATA land, STDC has progressed at pace with substantial ground investigations, environmental surveys, enabling highway infrastructure and has secured planning permission to commence ground remediation works.
- 4.12 The STDC Area benefits from the presence of strategically important businesses, facilities and operations and STDC acknowledges the importance of working collaboratively with existing major businesses on South Tees in order to fully exploit the opportunities afforded by having their operations located within or adjacent to the proposed regeneration area. It is recognised that these businesses offer unique selling points for the STDC Area that elevate its standing above those of other areas and it is logical that mutually beneficial opportunities should be explored.
- 4.13 In May 2018, STDC signed a Memorandum of Understanding with Sembcorp Utilities UK to maximise investment opportunities across the South Tees and Wilton International sites. It was agreed to jointly promote the region, directing businesses to the most appropriate site for their requirements, ensuring both areas fulfil their potential and attract the right kinds of businesses.
- 4.14 In July 2019, STDC and Sirius Minerals Plc held discussions regarding The York Potash Project and its strategic alignment with the STDC transformational agenda. Both parties agreed to progress a Memorandum of Understanding which will ensure strong alignment and that there will be no detrimental impact on the York Potash Project. I expect these discussions to conclude in Q1 2020.
- 4.15 In March 2019, STDC signed a Memorandum of Understanding with RBT to work towards a common goal to attract new industrial investment and jobs to the Teesside area. Both parties will seek to identify mutually beneficial investor opportunities and to deliver their respective master plans cohesively.
- 4.16 STDC have worked closely with PD Teesport to ensure that our respective strategies are aligned and deliver economic property to the Tees Valley. It has been the intention to encapsulate this working within a Memorandum of Understanding but to date this has been overtaken by day to day operational priorities. It is expected that a Memorandum of Understanding will be agreed in Q1 2020.

- 4.17 Following the making of the Order, a number of tenants and operators with wayleaves across the Order land objected to the Order, in order to protect their current apparatus and operations. STDC acknowledges the importance of working collaboratively with existing businesses collocated on the Order land and as such, STDC's property teams are working toward asset protection agreements with these operators as discussed further within Michael King's proof of evidence [STDC8/2].
- 4.18 The need for comprehensive redevelopment and delivery of the Master Plan is considered further, and in detail, by John McNicholas in his proof of evidence [STDC2/2].



## 5 COMPLIANCE WITH COMPULSORY PURCHASE POLICY

### Policy Compliance

5.1 The Guidance states at paragraph 1 that:

*"Compulsory purchase powers are an important tool to use as a means of assembling the land needed to help deliver social, environmental and economic change. Used properly, they can contribute towards effective and efficient urban and rural regeneration, essential infrastructure, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life"*

At paragraph 2, it states that:

*"Acquiring authorities should use compulsory purchase powers where it is expedient to do so. However, a compulsory purchase order should only be made where there is a compelling case in the public interest"*

5.2 The Guidance further states that an acquiring authority, when considering the making of a compulsory purchase order, should have regard to the following factors:

- the acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. Regard should be had, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights (paragraph 12 of the Guidance);
- that adequate resource is likely to be available to enable the acquisition of the land pursuant to the order and for the scheme underlying the order to proceed (paragraph 14 of the Guidance);
- that the scheme underlying the order is unlikely to be blocked by impediments to implementation (paragraph 15 of the Guidance); and
- that there is no obvious reason why planning permission for the scheme might be withheld (paragraph 15 of the Guidance).

Taking each point in turn:

### **Compelling Case in the Public Interest**

- 5.3 STDC has had regard to the requirements of the legislation, including the Acquisition of Land Act 1981, and the guidance set out above and considers that there is a compelling case in the public interest for the making and confirmation of the Order.

### **Human Rights**

- 5.4 STDC recognises that a compulsory purchase order should only be made where there is a compelling case in the public interest. The Guidance makes it clear that an acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. STDC has had regard to the impact of the Order on the human rights of those with an interest in the land included in the Order.
- 5.5 In making this assessment, an acquiring authority should have regard, in particular, to the provisions of Article 1 of the First Protocol of the European Convention on Human Rights which provides that: *"...every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties..."*.
- 5.6 Article 6 of the Convention provides that *"...in the determination of his civil rights and obligations...everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.."* The Master Plan has been brought to the attention of the affected owners/occupiers and extensively discussed with them.
- 5.7 During the final quarter of 2017, there was significant engagement with the community and commercial operators through a series of public and specific events. These included the launch of the Master Plan, involving seven public consultation events, consultation events for local councillors and fifteen other presentation sessions with key landowners and stakeholder groups such as the Environment Agency, industry organisations and local/community groups. There were no objections raised by landowners during the consultation.
- 5.8 Discussions have been held with local residents in South Bank, local councillors, the Fisherman's Huts Association, the South Gare Group and Redcar and Cleveland Borough Council's (RCBC) Scrutiny Committee. Each September since the SSI closure, STDC has also taken the opportunity to speak to local businesses at the Tees

Valley Business Club events in Redcar, updating on plans and developments across the STDC area. Further consultation with statutory bodies has also been included as part of the Order making process.

- 5.9 STDC has, in accordance with the Guidance, progressed the making of the Order alongside private treaty negotiations. STDC has engaged with all affected landowners as they have been identified and confirmed. Significant success in negotiations has been achieved with the acquisition of the major land interests of TATA Steel and we are close to completing land acquisition from RCBC. I expect in the majority of cases to agree terms upon which STDC can acquire the land interests it needs, conditional upon the Order being confirmed.
- 5.10 As explained in the evidence of Michael King [STDC8/2], all of those affected have been notified and had an opportunity to make objections to the Order, and to be heard at a public inquiry, before a decision is made on whether or not the Order is to be confirmed.
- 5.11 Whilst occupiers and owners in the Order land will be deprived of land and/or rights will be acquired over their land if the Order is confirmed, this will be undertaken in accordance with the requirements of the various acts that control such matters. STDC considers that the Order will strike a fair balance between the public interest in the implementation of the Master Plan, of which the Order is a fundamental part, and those private rights affected by the Order. Those directly affected will be entitled to compensation to be settled in the absence of agreement by the Upper Tribunal (Lands Chamber).
- 5.12 The Order is being pursued in the public interest as required by Article 1 of the First Protocol. I have set out public benefits of the Scheme throughout this Proof of Evidence and have drawn conclusions from all the evidence presented on behalf of STDC.
- 5.13 Any interference with a right protected by the 1998 Act/European Convention on Human Rights must be necessary and proportionate. STDC considers that a compelling case in the public interest exists and this meets the requirements of the Convention. In making the Order, STDC has carefully considered the balance to be struck between individual rights and the wider public interest.
- 5.14 Having regard to the matters set out above, a compelling case in the public interest exists for the making and confirmation of the Order. Interference with Convention rights, to the extent that there is any, is considered to be justified in order to secure the benefits which the Scheme will bring to the regeneration of the Order land and the wider STDC Area, and the resulting economic, social and environmental benefits.

Appropriate compensation will be available to those entitled to claim it under the relevant statutory provisions.

### **Equalities Act**

- 5.15 Section 149 of the Equality Act 2010 sets out a public sector equality duty that is applicable to all their functions, including compulsory purchase. Subsection (1) states that a public authority must, in the exercise of its functions, have due regard to the need to:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 5.16 Section 149(2) of the Equality Act 2010 makes it clear that a person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1) of that Act.
- 5.17 The duty aims to ensure public authorities/bodies think about things like discrimination and the needs of people who are disadvantaged or suffer inequality, when they make decisions about how they provide their services and implement policies. In the context of exercising compulsory purchase powers, they must have regard to the effect of any differential impacts on groups with protected characteristics.
- 5.18 STDC has carried out an Equalities Impact Assessment [CD/G/2] to consider the possible effects of the making of the Order. It determines that the Scheme will deliver positive industrial and local and sub-regional employment that, overall, will not negatively affect any priority group. It goes on to conclude that the regeneration proposals of the Scheme will, on balance, have a direct, long-term minor-moderate positive impact on priority groups and a direct, long-term major positive impact on the general population living in the local and wider impact areas.
- 5.19 It is considered that STDC has acted in a manner that is consistent with the need to devise a process which promotes equality of opportunity and the overarching requirement to act in accordance with the equalities duty set out in Section 149 of the 2010 Act. As there is no adverse effect, mitigation is not necessary.

## **Adequate Resources**

- 5.20 STDC was established as the vehicle to deliver the regeneration of the STDC Area of which the Order land forms part. Government-backed, STDC is best placed to deliver redevelopment of the land and will do this through implementing a progressive, optimally phased delivery of demolition, site preparation and infrastructure across the STDC Area, which will be aligned to development priorities and led by end user requirements.
- 5.21 South Tees Developments Limited (STDL) is a special purpose vehicle (SPV) of STDC. STDL is a private company limited by shares, whose sole shareholder is STDC. STDL was established to acquire the TATA land and that acquired through the Order, and is also able to hold other assets, enter into contracts with third parties and generally carry on the business of owning and managing development. STDL's constitution is governed by its Articles of Association.
- 5.22 Among the reasons for STDC creating and using an SPV are:
- as a company limited by shares, it is an easily recognisable entity in all global jurisdictions, which may be of benefit when liaising with grant providers and investors (this is in contrast to STDC, which is one of the few mayoral development corporations established by statute);
  - it can own and hold assets in its own name, and give a floating charge as security for external finance, create charges over future assets such as debts receivable and (depending on the value of the security offered by the SPV) enable finance to be raised without recourse to the shareholder, STDC;
  - the SPV is able to apply to HM Revenue & Customs (HMRC) to register for VAT, whereas the VAT treatment of STDC, being a mayoral development corporation established under statute, is uncertain; and,
  - as a separate company from STDC, the SPV provides a clear corporate structure for internal group accounting and reporting.
- 5.23 STDC has developed an organisation with sufficient capacity and competence, complemented by strategic partnership working with TVCA, Colliers, Avison Young, Vivid Economics and Lichfield, to meet the challenges of maximising the benefits to be gained from economic development of the Order land. The core organisation has the capability to address strategic development, infrastructure, remediation, planning, project management, procurement, commercial proposals, business development, strategic relationship building, financial modelling, HR, risk management, communications and marketing.

- 5.24 Considerable effort has been expended to develop a robust financial model and associated business plan resulting in the necessary financial resources being allocated locally by TVCA and nationally by UK Government. The funding strategy to deliver the planned regeneration is discussed in Gary Macdonald's proof [STDC3/2].

### **Impediments**

- 5.25 I am confident that, other than assembly of the land, there are no impediments to securing regeneration of the Order land and I am not aware of any legal or planning impediments to delivering regeneration of the Order land. The evidence of John McNicholas [STDC2/2], in particular, addresses the issues of timescale and impediments by reference to the programme of works required to undertake the Scheme.

### **Planning Permission**

- 5.26 Planning permission has already been successful for ground remediation work and planning policy, powers and impediments are considered at length in Anthony Greally's proof of evidence [STDC4/2].
- 5.27 STDC's planning advisors are satisfied that there are no obvious reasons why planning permissions (and in some instances Development Consent Orders) will not be granted (or made) for development in line with the Master Plan.
- 5.28 In resolving to make the Order, the Board, having considered the delay in land assembly against the market interest, concluded at its 25/07/18 meeting to:
- authorise the making of one or more compulsory purchase order(s) to acquire the necessary land interests in the STDC Area and, as necessary, the creation of new rights, pursuant to sections 201 and 207 of the Localism Act 2011 and the Acquisition of Land Act 1981 to secure the regeneration of the STDC Area by facilitating the regeneration or development of land;
  - authorise the Chief Executive to take all necessary steps to make one or more compulsory purchase order(s) and thereafter to continue the process for the confirmation and implementation of the compulsory purchase orders; and
  - to agree to the submission of the compulsory purchase order(s) to TVCA for consent to submit the compulsory purchase order(s), once made, to the Secretary of State for confirmation pursuant to section 207(3) of the 2011 Act.
- 5.29 The former CEO commenced all necessary steps to make the Order, however in the absence of a CEO being in post for STDC at the time of making the Order, the Tees

Valley Mayor Ben Houchen, as chair of the STDC Board, signed the Order and under s11(1) of the Localism Act 2011, authenticated the seal. TVCA Cabinet consented to the submission of the Order to the Secretary of State for confirmation in March 2019.

5.30 In authenticating the Order, the Mayor concluded that:

- the regeneration benefits to be derived from the implementation of the Scheme justify the interference with the human rights of those with an interest in the land included in the Order and that the use of Order is in the public interest, in regard to paragraphs 128 and 134 of the Guidance;
- having regard to paragraph 132(i) of the Guidance, STDC has demonstrated that the land is in need of regeneration;
- having regard to paragraph 132(ii) of the Guidance, no alternative proposals have been put forward by the owners of the land in the STDC Area for its regeneration;
- other than assembly of the land required for the Scheme, there are no impediments to its delivery and regeneration is, on balance, more likely to be achieved if the land is acquired by STDC, having regard to paragraph 132(iii) of the Guidance;
- the recent history and state of the land is one that requires continued and significant public sector funding to keep safe, without any positive economic return to the public purse or to the economic, social and environmental well-being of the area, having regard to paragraph 132(iv) of the Guidance;
- the Master Plan provides a comprehensive regeneration scheme that is capable of delivery in the absence of any alternative proposals by landowners and that the Order land is within the area covered by the Master Plan, having regard to paragraph 132(v) of the Guidance; and
- that despite there being no planning permissions for the Scheme in its entirety, there are no major planning impediments to the regeneration of the area in accordance with the statutory planning policy framework, with which the Master Plan is consistent, (having regard to paragraph 133 of the Guidance).

5.31 I am accordingly satisfied that STDC has had regard to the relevant guidance and complied with the relevant provisions in making the Order.

## 6 RESPONSE TO OBJECTIONS

6.1 The evidence of Michael King [STDC8/2] examines the objections in comprehensive detail, however, within the areas I cover within my evidence, Tisco Bank plc, Krungthai Bank plc and Siam Commercial Bank plc (the Thai Banks), Sahaviriya Steel Industries plc and The Royal Bank of Scotland plc, all object to the Order on the following grounds written in bold:

### **Procedural flaws - Incorrect use of Statutory Power and lack of transparency**

6.2 I address this comment as follows: In resolving to make the Order, the STDC Board concluded at its 25<sup>th</sup> July 2018 meeting to:

- authorise the making of one or more compulsory purchase orders to acquire the necessary land interests in the land and, as necessary, the creation of new rights, pursuant to sections 201 and 207 of the Localism Act 2011 and the Acquisition of Land Act 1981 to secure the regeneration of the STDC Area by facilitating the regeneration or development of the land;
- authorise the Chief Executive to take all necessary steps to make one or more compulsory purchase orders and thereafter to continue the process for the confirmation and implementation of the compulsory purchase orders; and
- to agree to the submission of the compulsory purchase order(s) to TVCA for consent to submit the compulsory purchase order(s), once made, to the Secretary of State for confirmation pursuant to section 207(3) of the 2011 Act.

6.3 In the absence of a CEO being in post for STDC at the time of making the Order, the Tees Valley Mayor Ben Houchen, as chair of the STDC Board, signed the Order and under s11(1) of Schedule 21 of the Localism Act 2011, authenticated the seal. TVCA Cabinet consented to the submission of the Order to the Secretary of State for confirmation in March 2019.

6.4 In order to seek to address this element of the Thai Banks objection, and in addition to the statutory requirement to publish documents authorising the making of the Order, all governance documents, agendas and minutes, redacted of commercially sensitive information, have been provided to the objectors' representatives for their further review. I do not therefore consider this objection to be valid.



**The Statement of Reasons is incorrect in its claim that confirmation of the Order will somehow bring to an end the public expenditure that has been incurred in maintenance of the Order Land since steel production came to an end. A change in ownership will do nothing to diminish the holding costs of the land (to the extent these are actually justified, and necessarily incurred), costs which we are told central government has already committed to pay up to 2022.**

6.5 I address this comment as follows: The annual cost to keep the site safe under the COMAH status is approximately £16m, additionally, BEIS has approved the funding for an 'Invest to Save' project valued at £49m that will see the removal of all Top Tier COMAH materials from the site. Successful completion of the project will see the annual 'keep safe' costs reduce to circa £9m, remove the site from COMAH status and support the redevelopment of the site by STDC. Upon completion of the Invest to Save project, it is intended for STSC to transition to local governance; further reducing the ongoing financial burden UK Government have had to bear following the SSI closure, totalling £221m.

6.6 As the site continues to deteriorate, the list of essential interventions continues to grow, to avoid any further catastrophic incidents, I therefore do not consider this objection to be valid. Critically, allowing this objection to succeed would raise question as to the amount invested by the public purse in keeping the site safe until this point and primarily; UK Government's reasoning behind funding this interim measure pending strategic resolution.

6.7 Again, the evidence of Michael King [STDC8/2] examines the objections in cohesive detail, however within the areas I cover within my evidence, Mr and Mrs Hall object to the Order on the following grounds:

**The extensive loss of land would significantly impact their lifestyle, would destruct an area of great natural beauty and the redevelopment of the area will change the character of the remote area of their cabin.**

6.8 I address this as follows: It would appear that Mr and Mrs Hall believe that the area of land upon which their leased cabin is situated is to be redeveloped; losing the character and wildlife that exists in this area. Unfortunately I have been unable to discuss the matter with them, as despite a number of attempts to engage with Mr and Mrs Hall, they have not responded.

6.9 The area in which their cabin is situated is designated as SSSI and as such would not be suitable to develop upon. The area, known as South Gare, is not part of the Order land but forms part of STDC's Coastal Community Zone and it is our intention to enhance the wildlife and protection of the interests in this area through partnership

with local and national regulators. An Environment and Biodiversity Strategy is currently being compiled, directed by a working group of environmental stakeholders. Without any direct contact with Mr and Mrs Hall to expand on their objection, I can only surmise that they have misunderstood the proposals for the area surrounding their land interest and as such, I do not therefore consider this objection to be valid.

## **7 CONCLUSION**

- 7.1 The regeneration of the STDC Area will deliver substantial benefits to South Tees and the wider Tees Valley Region, particularly to enable the delivery of the comprehensive regeneration of under-utilised industrial, manufacturing and employment land. It will achieve the remediation of contaminated land, thereby contributing to the environmental wellbeing of the STDC Area, will bring about significant economic benefits, through job creation, and contribute to the social wellbeing of the STDC Area through creating the opportunity for prosperity.
- 7.2 The history of the Order land coupled with the disparate landownership means that the Order land is unlikely to come forward for a comprehensive regeneration scheme of the scale and quality proposed, without the intervention of STDC through the use of compulsory purchase powers. This is partly because landowners and interested parties are unlikely to sell their respective interests in the Order land and grant the necessary rights over the Order land without being compelled to do so.
- 7.3 In addition, the benefits set out in the Master Plan are unlikely to be achieved without a planned and coordinated approach being taken to delivery, which will maximise the opportunity presented by the Order land.
- 7.4 The ever deteriorating condition of the industrial assets combined with a substantial inventory of hazardous substances, has resulted in a site with considerable safety, health and environmental challenges. This will only grow if not strategically addressed as a matter of urgency, as so tragically demonstrated by the incident of September 2019.
- 7.5 The Order land is currently under-utilised and unsightly, with significant keep safe costs and constraints to development, such as high up front demolition, site preparation and remediation costs. This, when combined with the fragmented nature of land ownership, is a significant barrier to development.
- 7.6 The Government cannot continue to fund the 'Keep Safe' costs for the SSI land indefinitely and at significant cost to national and local taxpayers, currently totalling £221m. It is imperative that the hazardous infrastructure is addressed as a matter of urgency to avoid further incidents occurring. It is evidently not sustainable for the Government to continue to fund these costs for the former SSI land indefinitely and, in addition to the funding allocated locally to fund land acquisition costs, UK Government has confirmed and publically announced that it will provide the funding to commence the regeneration proposals.
- 7.7 As there have been no viable alternative proposals put forward, and notably not from the principal landowner; it is clearly in the public interest for the Order to be confirmed

to avoid the potential for the OR to disclaim the SSI land, further adding to the significant public burden.

- 7.8 One of STDC's primary focuses is to contribute to the physical regeneration, social regeneration and environmental regeneration of its area by bringing back into use the Order land. It is anticipated that securing the comprehensive regeneration of this land will drive forward growth and investment, creating jobs and supporting local communities which have suffered hardship following the closure of the SSI steelworks in 2015.
- 7.9 The regeneration of the Order land is of significant benefit to the economic, social and environmental well-being of South Tees. It will further deliver substantial benefits to the local area, particularly by delivering sustained economic prosperity for the Tees Valley through the creation of up to 20,000 new direct and indirect jobs. The focus is on higher skilled sectors and occupations, centred on manufacturing innovation and advanced technologies, underpinned by the aspiration for new development to deliver a high value, low carbon, diverse and inclusive circular economy. If STDC does not exercise its compulsory purchase powers, land assembly is unlikely to occur within a reasonable time. The Order will be used in the public interest to secure the assembly of land in a timely manner, where it has not been possible to do this through agreement with landowners.
- 7.10 Successful regeneration of the Order land is a key enabler of UK Government's ambition to develop and increase the UK content of the offshore wind industry.
- 7.11 I believe that the Order has been made in accordance with STDC's powers and the relevant guidance and that it is very much in the public interest for the Order to be confirmed.