

Proof of Evidence of Anthony Greally BA (Hons) Dip TP MRTPI

**The South Tees Development Corporation Compulsory Purchase
Order**

Acquiring Authority: South Tees Development Corporation

January 2020

STDC4/2

LICHFIELDS

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Declaration

The evidence which I have prepared and provide in this Proof of Evidence is true and has been prepared and is given in accordance with the Code of Professional Conduct of my professional institution, the Royal Town Planning Institute. I confirm that the opinions expressed are my true and professional opinions.

1.0 **Qualifications and Experience**

Qualifications

- 1.1 My name is Anthony Greally, I hold a Bachelor of Arts with Honours Degree and Diploma in Town and Country Planning from Newcastle University. I am a chartered member of the Royal Town Planning Institute.

Experience

- 1.2 I have over 20 years' experience in planning work in the United Kingdom, predominantly in the private sector. I am a Senior Director in the firm of Nathaniel Lichfield & Partners [Lichfields].
- 1.3 Much of my work has involved the planning and environmental assessment of a wide range of development proposals, including large-scale commercial and industrial development proposals. This includes the management of outline and detailed planning applications for operator-led industrial developments, speculative industrial accommodation and associated infrastructure, as well as development in sensitive urban locations such as town centre commercial (retail and leisure) projects and residential developments.
- 1.4 Lichfields is one of the largest independent Town Planning consultancies in the UK. The company has significant experience in planning for major industrial and infrastructure development and obtaining consents through planning permissions and Development Consent Orders.
- 1.5 I give evidence to this Inquiry on behalf of South Tees Development Corporation [STDC] in support of its use of compulsory purchase powers pursuant to Section 207 of the Localism Act, 2011, in relation to the STDC (Land at the former Redcar Steel works, Redcar) Compulsory Purchase Order 2019 [the Order Land].
- 1.6 Of relevance to the matters under consideration in this Inquiry, I have had extensive involvement in the formation of Development Plan policies for the area and have

submitted planning applications on behalf of STDC for development in proximity to the Order Land.

- 1.7 I have inspected the site and its surroundings and I am familiar with the CPO scheme, the planning policies of Redcar and Cleveland Borough Council [the Council], and the wider (non-statutory) planning and economic policy framework for the area.

2.0 **Scope and Structure of Evidence**

Scope

2.1 My evidence addresses planning matters including:

- 1 A brief description of the Scheme, namely the regeneration of the STDC administrative area [the STDC Area], in line with the South Tees Regeneration Master Plan [the Master Plan];
- 2 The characteristics of the STDC Area, in which the Order Land is located, and its immediate surroundings;
- 3 The planning policies that are relevant to the consideration of development proposals in the STDC Area;
- 4 The consideration of development proposals, in line with the Master Plan, through the planning process [the determination process] in order to deliver regeneration in the STDC Area;
- 5 STDC's role in the planning process vis a vis the role of the Council as local planning authority;
- 6 The key matters in the planning application determination process, including consideration of the Development Plan, Environmental Impact Assessment, Habitat Regulations Assessment and the weighing of other material considerations in the planning balance;
- 7 A summary of marine-related consents and licenses that are likely to be required to carry out works affecting the River Tees;
- 8 Benefits of the Scheme from a planning perspective and the implications of failing to acquire the Order Land;
- 9 Conclusions as to why there are no obvious reasons why planning permission might be withheld for developments that would deliver the Scheme; and
- 10 The compelling case in the public interest (in respect of planning matters) for the confirmation of the CPO.

2.2 My evidence should be read in conjunction with the Proofs of Evidence prepared by:

- 1 Mr David Allison (STDC) whose evidence explains STDC's powers and duties to secure the regeneration of the Order land and how it is has acted reasonably and properly in exercising its powers to instigate the compulsory purchase of the Order land [Ref. STDC1/2];
- 2 Mr John McNicholas (STDC) whose evidence covers the objectives and importance of regenerating the area in accordance with the South Tees Regeneration Master Plan [Ref. STDC2/2];
- 3 Mr Gary McDonald (Tees Valley Combined Authority / TVCA) whose evidence demonstrates the financial standing of STDC (as the acquiring authority) and the funding commitments in place to acquire the CPO land [Ref. STDC3/2];
- 4 Mr Michael King (Avison Young) whose evidence demonstrates the efforts made by STDC to acquire the CPO land through negotiation [Ref. STDC8/2];
- 5 Mr. Guy Gilfillan (Colliers) whose evidence demonstrates the demand in the industrial sector to deliver the Scheme. It also explains how the delivery of development in a comprehensive manner, in line with the Master Plan, is important to the marketing of the STDC site [Ref. STDC5/2];
- 6 Mr John Knowles (Colliers) whose evidence demonstrates the viability of the Scheme from a funding and investment perspective [Ref. STDC6/2]; and
- 7 Mr Dan Aylward-Mills (Vivid Economics) whose evidence demonstrates that the delivery of the Scheme is economically viable [Ref. STDC7/2].

Structure

2.3 The remainder of my evidence is set out as follows:

- Section 3 describes the process of the CPO as it relates to the legislation under which STDC operates;
- Section 4 sets out the planning policy context and relevant planning guidance;

- Section 5 describes the Scheme, namely the regeneration of the STDC Area in line with the South Tees Regeneration Master Plan and in accordance with the local planning policy framework for the area. It also describes the characteristics of the site of the Scheme and the immediate surrounding area;
- Section 6 explains how STDC intends to deliver the Master Plan, in respect of seeking and obtaining planning permissions both itself and by others;
- Section 7 outlines the main considerations in the determination of planning applications for development proposals to deliver development in line with the Master Plan;
- In Section 8, marine-related consents and Orders are summarised;
- In section 9, I consider the benefits of the Scheme and the likely consequences, from a planning perspective, should the CPO not be confirmed;
- In section 10, I summarise other matters of relevance to the confirming of the CPO and the weighing up of the compelling case in the public interest;
- In section 11, I then set out my views as to why there is a compelling case in the public interest for the confirmation of the CPO and the delivery of the Scheme;
- In Section 12, I respond to specific matters raised by objectors, where they relate to matters addressed in my evidence; and
- In Section 13, I provide my summary and conclusions on the matters covered in this Proof of Evidence.

3.0 The CPO Process

3.1 STDC seeks compulsorily to acquire land (coloured pink on the accompanying plans [CD Ref. CD/A/2]) and rights over land (coloured blue) by way of the South Tees Development Corporation (Land at the Former Redcar Steel Works, Redcar) Compulsory Purchase Order 2019.

3.2 The Order was made pursuant to Section 207 of the Localism Act, 2011 [‘the Act’]. The purpose of 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 South Tees area into opportunities for business investment and economic growth.

3.3 The legal context applicable to the South Tees Development Corporation (Land at the Former Redcar Steel Works, Redcar) Compulsory Purchase Order, 2019 is set out in further detail within the Proof of Evidence of Mr David Allison [Ref STDC1/2]. As explained in that Proof of Evidence, the Government Guidance on Compulsory purchase process and The Crichel Downs Rules, July 2019, [the “Guidance”], at Tier 2, sets out the different types of ‘enabling powers’ that are most likely to be used by public bodies when seeking to use CPO powers. The Guidance does not specify how the legislation relates to Mayoral Development Corporations (MDCs). It is, therefore, considered reasonable to apply the Guidance in respect of Urban Development Corporations (UDCs) as far as it is relevant and applicable to MDCs.

3.4 In reaching a decision on whether to confirm a compulsory purchase order (applied for by a UDC), the Secretary of State (or in the first instance, an appointed Inspector) would consider:

“(i) whether the urban development corporation has demonstrated that the land is in need of regeneration

(ii) what alternative proposals (if any) have been put forward by the owners of the land or other persons for regeneration

(iii) whether regeneration is on balance more likely to be achieved if the land is acquired by the urban development corporation

(iv) the recent history and state of the land

(v) whether the land is in an area for which the urban development corporation has a comprehensive regeneration scheme; and

(vi) the quality and timescale of both the urban development corporation's regeneration proposals and any alternative proposals"

3.5 More generally, compulsory purchase powers should only be used where it is expedient to do so and where there is a compelling case in the public interest, with the acquiring authority having taken reasonable steps to acquire the land (and rights) by agreement. Where there are no specific proposals for the land subject to the CPO (i.e. where planning permission(s) has not been granted for proposals), assurances should be given by the acquiring authority that there is a realistic prospect of the land being brought into beneficial use within a reasonable timeframe. In respect of the latter point, the Guidance sets an expectation that, prior to making a compulsory purchase order, there should be resolution of *"any major planning difficulties (where practicable)"* or, it would be possible to *"demonstrate that there are no planning or other impediments to the proposed scheme"*. Whilst these matters are, according to the Guidance, specific to Homes England's powers, I consider them to be equally applicable in this case and are matters on which my evidence is focussed.

3.6 In respect of demonstrating that there are no impediments to the scheme, part 15 of the Guidance explains that the acquiring authority will need to consider physical and legal impediments to the implementation of the scheme. It goes on to clarify that these include the need for planning permission or other consents and licences, alongside potential physical impediments. It also provides a steer on how the acquiring authority should assess whether there are planning impediments in a situation where planning permission will be required for the scheme but has yet to be granted. It states that *"the*

*acquiring authority should demonstrate...that there are no **obvious reasons** why [planning permission] might be withheld.” (My emphasis in bold)*

3.7 The Act¹ states that the “Scheme” means *‘the scheme of development underlying the acquisition’* and clarifies that where the acquisition is in connection with an area designated as an urban development area or a Mayoral development area *‘the scheme is the development of any land for the purposes for which the area is or was designated’*. The Scheme, therefore, in this instance, is the regeneration of the STDC Area in line with the Master Plan.

3.8 In this Proof of Evidence, I will consider whether there are any obvious reasons why planning permission would be withheld for development to deliver the Scheme. I will also assess whether, from a planning perspective, there is a compelling case in the public interest for the delivery of the CPO Scheme given the Guidance makes clear that demonstrating a compelling case in the public interest is the overriding requirement for justifying any Compulsory Purchase Order.

1 Land Compensation Act, 1961, as amended by Section 32 (3) of the Neighbourhood Planning Act 2017

4.0 Planning Policy & Guidance

Introduction

- 4.1 Section 70 (2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
- 4.2 The development plan for the Redcar and Cleveland area, within which the STDC Area is located, comprises:
- The Redcar and Cleveland Local Plan [CD/D/2];
 - The Tees Valley Joint Minerals and Waste Core Strategy DPD [CD/D/4]; and
 - The Tees Valley Joint Minerals and Waste Policies and Sites DPD [CD/D/5].
- 4.3 National policy and guidance are provided by the National Planning Policy Framework (NPPF) [CD/C/1] and the Planning Practice Guidance (PPG) [CD/C/2]. The Local Plan policies are also supplemented by the South Tees Area Supplementary Planning Document [CD/D/3]. These do not form part of the statutory development plan though they are material to the consideration of planning applications. I, therefore, summarise them below.

The Statutory Development Plan

The Redcar and Cleveland Local Plan [CD Ref. CD/D/2]

- 4.4 The Redcar and Cleveland Local Plan was formally adopted in May 2018 following an Examination in Public (EiP) conducted by an independent Inspector. Before I discuss the relevant content and policies of the Local Plan, I would draw attention to the consideration of the Plan by the Planning Inspector, and evidence which supported the Plan at examination.
- 4.5 The Inspector's report, published on the 23rd March 2018 [CD Ref. CD/D/1], confirmed that, subject to a number of main modifications, the Plan met the criteria for soundness in the NPPF (paragraph 356). The criteria for soundness include that the Plan is

'effective', which, at the time of the Inspector's report, was defined in the NPPF (2012) (paragraph 182) as '**deliverable over the plan period and based on effective joint working on cross-boundary strategic priorities**' (this requirement is effectively repeated at paragraph 35 of the latest version of the NPPF). *(My emphasis in bold)*

4.6 In particular, at issue 10, the Inspector considered the matter of '*whether the strategy for jobs growth and employment, and allocation and policies concerning employment sites are justified and consistent with national planning policy*'. The Inspector recognised the importance of the 'port and process industry' at Teesport to the local economy and agreed with the approach of planning for 'specialist uses'² separately to general employment uses. The Inspector was satisfied that the approach of allocating 405ha of additional land for specialist uses, including 184ha of land at South Tees is '*based on sound planning reasons.*' Further, with regards to the allocation at South Tees, the Inspector concluded that the Local Plan provides a '*flexible, positive framework for future economic development*'. In conclusion, the Inspector states that '*the strategy for job growth and employment, and the allocations and policies concerning employment sites are justified and consistent with national planning policy*' [CD Ref. CD/D/1], paragraphs 216, 221, 235]

4.7 Given the scale of the STDC area and the nature of the proposals within the Scheme, there are a range of policies contained within the development plan that will be relevant to any planning applications for its future development. In summary, these policies support the ongoing employment operations relating to heavy industry and logistics (e.g. port/port related, steel, chemical and to a lesser degree more general business uses) alongside the provision of necessary supporting infrastructure. They further promote renewable energy opportunities (e.g. biomass and on-shore wind). These policies also recognise the range of national and international ecological and landscape designations within and adjoining the South Tees Area. Overall, the policies promote and guide the comprehensive development of the South Tees Area.

² According to the Local Plan, specialist uses include heavy processing industries and port logistics. The Land at South Tees is allocated for such uses.

- 4.8 The main Local Plan policies which provide the strategy for guiding the future development of the South Tees Area are summarised below. In addition, all those policies considered relevant to planning applications in the area are included as a Core Document [CD Ref. CD/D/2].
- 4.9 **Policy LS4 South Tees Spatial Strategy** sets out the Council's aims for a wider South Tees Area, which includes the STDC area. The policy supports, inter alia, the delivery of significant economic growth through STDC and the regeneration of the STDC Area. It also provides specific support for the existing steel industries, alongside the expansion of the port and logistics sector, the environmental, recycling and offshore energy sectors and the expansion of the road network to unlock development potential at South Tees. It also aims to secure the decontamination and redevelopment of potentially contaminated land, and to protect European sites and enhance the environmental quality of the River Tees and coastline.
- 4.10 **Policy ED6 Promoting Economic Growth** allocates land for specialist employment uses, such as heavy processing industries and port logistics in the South Tees Area and supports development proposals falling within Use Classes B1, B2, B8 and suitable employment related sui-generis uses. The allocation covers most of the STDC area (with the exception of the Coastal Community Zone).
- 4.11 An extract from the Local Plan proposals map, showing the extent of the land allocated at South Tees for employment uses, under Policy ED6, is included at Appendix 1 [Ref. STDC4/3].
- 4.12 Both policies make specific reference to the need for developments to have regard to, and to meet the requirements of the South Tees Area Supplementary Planning Document, which I summarise later in this section.

Tees Valley Joint Minerals and Waste Development Plan Documents [CD Ref. CD/D/4 and CD/D/5]

- 4.13 The Tees Valley Joint Minerals and Waste Development Plan Documents (DPDs) provide the local planning policies in relation to minerals and waste for the five local

authorities in the Tees Valley. The two DPDs, which were both adopted in September 2011, are the Minerals and Waste Core Strategy DPD and the Minerals and Waste Policies and Sites DPD.

- 4.14 The Minerals and Waste Core Strategy contains a policy and designations which safeguard the borough's minerals resources from sterilisation through other forms of development. Resources are identified across the whole borough; however, the designation does not prevent development and, together with the policies in the RCBC Local Plan, the Core Strategy promotes the delivery of development in appropriate places.
- 4.15 The Minerals and Waste Policies and Sites DPD includes allocation MWP8: South Tees Eco-Park which covers part of the site known as 'Grangetown Prairie' which forms part of the STDC area. The policy text for the allocation states that *"Appropriate development for the site could include large-scale waste management facilities including autoclave, physical reprocessing and biological treatment, waste transfer stations, materials recovery facilities, construction and demolition waste recycling, household waste recycling centres and commercial 'bring' depots."* (Policy MWP8).
- 4.16 Policy MWP8 does not in any way undermine the delivery of the Scheme as the weight to be attached to it is now limited, given the adoption of the more recent Local Plan. The DPDs were adopted in 2011 and the South Tees Eco-Park allocation was intended to protect land for the development of a waste management facility that was originally granted planning permission in 2008 and which was supported by (the now deleted) Policy CS4 of the Redcar & Cleveland Core Strategy. That development, however, was never implemented and permissions for it expired in 2014.
- 4.17 The Local Plan replaced the Core Strategy and no longer includes specific support for the Eco Park within Policy LS4. The Local Plan instead allocates the site for employment (industrial) (uses) within Policy ED6. The Master Plan is aligned with Policy ED6. In accordance with the Act³, any conflict which is considered to exist between the 2011

³ Planning and Compulsory Purchase Act 2004, Section 38 (5)

Minerals and Waste DPDs and the 2018 Local Plan must be resolved in favour of the policies of the more recent Local Plan.

Non-Statutory Documents (material considerations)

National Planning Policy Framework (February 2019) [CD Ref. CD/C/1]

- 4.18 The February 2019 version of the National Planning Policy Framework ('NPPF'), published by the Ministry of Housing, Communities and Local Government, replaced earlier versions published in July 2018 and March 2012. The document sets out the Government's economic, environmental and social planning policies for England.
- 4.19 At the heart of the NPPF is the intention for the planning system to contribute to the achievement of sustainable development. In practice this means development meeting three overarching objectives which are interdependent and need to be pursued in mutually supportive ways (economic, social and environmental) (paragraph 8).
- 4.20 In this respect, the NPPF is clear that *'Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area'*. (paragraph 9)
- 4.21 Paragraph 11 sets out that a presumption in favour of sustainable development should apply to plans and decisions. For decision taking this means **approving development proposals that accord with an up-to-date development plan without delay** (my emphasis in bold).
- 4.22 The NPPF confirms **that significant weight should be placed on the need to support economic growth and productivity**, taking into account both local needs and wider opportunities for development. In particular, the NPPF promotes planning policies and decisions to help create the conditions in which businesses can invest, expand and adapt (paragraph 80). (*My emphasis in bold*)

- 4.23 In line with the Government's Industrial Strategy, paragraph 80 aspires for Britain to be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.
- 4.24 Paragraph 81 sets out a clear strategy for planning policies to help build a strong and competitive economy including a requirement to:
- 'a) set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth, **having regard to Local Industrial Strategies and other local policies for economic development and regeneration.*** (my emphasis in bold).
- 4.25 Making effective use of land remains an important theme throughout the NPPF. In particular, paragraph 118 gives *'substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and **support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land**'* (my emphasis in bold).
- 4.26 Paragraph 119 states that local planning authorities and other plan-making bodies, should take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs.
- 4.27 In particular the NPPF promotes *'opportunities to identify and facilitate land assembly, supported where necessary by compulsory purchase powers, where this can help to bring more land forward for meeting development needs and/or secure better development outcomes.'* (paragraph 119)
- 4.28 Section 3 of the NPPF explains the central role of the Development Plan in the operation of the planning system: it should be *"genuinely plan-led"*. This important, central, role of the Development Plan to the effective function of the planning system requires Plans to be examined independently prior to their adoption to ensure they are 'sound' by being positively prepared, justified, effective and consistent with national policy. To be 'effective', Plans must be deliverable over the plan period.

- 4.29 Once adopted, Local Plans should be kept up-to-date and provide for a framework for addressing economic, social and environmental priorities of the plan area. Reviews of policies in Local Plans should be undertaken at least once every five years and policies updated where necessary.

Planning Practice Guidance [CD Ref. CD/C/2]

- 4.30 On 6th March 2014, the Government launched the online Planning Practice Guidance ['PPG'] and cancelled the majority of previous planning practice guidance documents. The PPG sets out a series of guidance notes of relevance in the consideration of planning decisions in the STDC area.

- 4.31 I have picked out a number of the more relevant paragraphs as follows:

What is the role of plans? (Plan-making: Paragraph 001 Reference ID: 61-001-20190315)

- 4.32 The PPG is clear that the development plan is “*at the heart of the planning system **with a requirement set in law that planning decisions must be taken in line with the development plan** unless material considerations indicate otherwise.*” (my emphasis in bold).

What should a plan look like? (Plan-making: Paragraph 002 Reference ID: 61-002-20190315)

- 4.33 The PPG asserts that allocations in local plans should include enough information to provide certainty to investors, and others, about the scale and nature of development included in the allocation.

What is the role of supplementary planning documents? (Plan-making: Paragraph 008 Reference ID: 61-008-20190315)

- 4.34 As explained below, development principles relating to the site are set out in Redcar and Cleveland's South Tees Area Supplementary Planning Document (SPD). The PPG states that “*Supplementary planning documents (SPDs) should **build upon and provide more detailed advice or guidance on policies in an adopted local plan**...They are however a material consideration in decision-making. They should not add unnecessarily to the financial burdens on development*”. (my emphasis in bold)

The South Tees Area Supplementary Planning Document [CD Ref. CD/D/3]

- 4.35 The Redcar & Cleveland South Tees Area Supplementary Planning Document (SPD) (adopted May 2018) supports the policies in the Redcar & Cleveland Local Plan. It is not statutory policy, rather a material consideration in the determination of planning applications.
- 4.36 The SPD relates to “the South Tees area”, which is confirmed (at Figure 1) as being the same as the STDC administrative area (the STDC Area). It is informed by the South Tees Regeneration Master Plan and supports the economic and physical regeneration of the STDC Area. It sets out the vision and core objectives for the area and provides greater detail on how planning policies will be interpreted.
- 4.37 The SPD includes a number of Strategic Development Principles which will be used to guide planning applications associated with the redevelopment of the STDC area. They have been developed in response to the relevant planning policies in the RCBC Local Plan and the development opportunities and constraints facing the STDC area.
- 4.38 I have summarised the Development Principles below, and their full wording can be found in Core Document [CD Ref. CD/D/3].

STDC1: Regeneration Priorities

- 4.39 STDC1 provides a series of priorities for the South Tees area in line with the SPD's Vision and Objectives. These include a strong alignment with the Government's Industrial Strategy, a co-ordinated world class offer, promotion and support for the expansion of existing port facilities, support for uses associated with advanced manufacturing, the low carbon and circular economy and for the creation of high-skilled employment and to support development which makes the best use of available land and existing infrastructure.
- 4.40 STDC1 also aims to resist piecemeal development of the South Tees Area where it would conflict with the comprehensive redevelopment of the area. The basis for this objective is set out at paragraph 3.2 of the SPD where it explains:

“The overarching principle of this SPD is to deliver the comprehensive redevelopment of the South Tees Area that will create an exemplar world class industrial business park, realising the vision for the South Tees Area.”

STDC2: Land Assembly and Delivery

4.41 STDC2 promotes the active assembly of land in order to maximise the development and regeneration potential of the area. This includes the Council and STDC working proactively and where necessary, using powers to compulsorily acquire land in order to achieve the SPD’s vision for the area.

4.42 The accompanying text (at paragraphs 3.4 – 3.7) captures the critical importance of land assembly in order to realise the regeneration of the area, where it states:

“The South Tees Area hosts a number of key stakeholders and associated land holdings...However, the current pattern of land ownership and land use makes for a pattern of disparate and disconnected sites....

A critical priority for the STDC is the assembling of the land needed for realisation of the regeneration programme as early as practically possible, whether through direct ownership or partnering arrangements. One of the key constraints to the plan is that although the numbers of owners is few, the land ownership pattern is fragmented...

...The approach taken in this SPD is to integrate a series of large development zones which will give the strategy the capacity to deliver large development areas which are sized sufficiently to provide flexibility in development options and to meet known and anticipated requirements in the national and international industrial and port-related markets...

...The effective implementation of the SPD and realisation of its vision and objectives is best achieved through the assembly of all land within the regeneration area...one of the key powers granted to the STDC is that of Compulsory Purchase Order (CPO). The use of such powers, along with other strategies, is an essential tool to assemble land for development...It is necessary to take a proactive approach to the assembly of land so that the South Tees Area can be 'fleet of foot' in meeting requirements as and when they emerge and lose such investment opportunities to locations elsewhere that are competing in the same global market to attract such businesses. Availability and deliverability of development plots are, therefore, vital to the success of the South Tees Area."

STDC3: Phasing Strategy

- 4.43 STDC3 sets out an approach to phasing that will allow development to be implemented as soon as possible. This includes the Council and STDC promoting locations which require little ground remediation, areas that can best accommodate end user needs and areas that don't require major demolition in this first instance. There is also recognition that areas which require more extensive remediation will be supported albeit may take longer to secure.

STDC4: Economic Development Strategy

- 4.44 STDC4 supports opportunities for specialist industries as well as the growth and expansion of existing operators and development proposals that will increase the attractiveness of the area for new users. The development principle also states that the Council, in collaboration with Government and key stakeholders, will explore and promote Free Trade Zones as a key driver to economic development.

STDC5: Transport Infrastructure

- 4.45 STDC5 promotes possibilities to improve and enhance transport infrastructure serving the South Tees Area. Specifically, this includes the Infrastructure Corridor, as well as Highway, Rail, Port, Footpath and Cycleway Improvements.

STDC6: Energy Innovation

- 4.46 STDC6 supports the development of new energy generation within the South Tees Area, including renewable energy development and the promotion of other innovative energy projects. All energy generation development should be appropriately sited to avoid unacceptable adverse environmental or amenity effects.

STDC7: Natural Environmental Protection and Enhancement

- 4.47 STDC7 looks to protect and, where appropriate, enhance designated and non-designated sites of biodiversity and geodiversity value and interest within the South Tees Area. It recognises the need for known contamination to be remediated, and for green infrastructure to be provided in accordance with Local Plan policies. It requires proposals with the potential to affect the Teesmouth and Cleveland Coast SPA to undergo a Habitat Regulations Assessment. It also requires proposals to have regard to the forthcoming Environment and Biodiversity and Open Space Strategies, which I comment on in sections 5.0 and 6.0 where I refer to the “Associated Strategies”.

STDC8: Preserving Heritage Assets

- 4.48 Development Principle STDC8 looks to protect industrial assets which are considered appropriate and viable to retain as part of the development of an industrial heritage trail in line with the South Tees Area Open Space Strategy. Proposals which would result in unacceptable harm to specific retained assets of heritage or cultural importance will not be supported.

STDC9: Site Remediation

- 4.49 STDC9 sets out an approach to the remediation of land within the site. Proposals should be in accordance with the forthcoming Ground Remediation Strategy and any remediation activities should avoid adverse effects on the integrity of the Teesmouth and Cleveland Coast SPA.

STDC10: Utilities

- 4.50 STDC10 aims to ensure that the South Tees Area and associated new development is adequately supported in terms of utilities and any necessary infrastructure. This

includes support for the development of new infrastructure relating to energy generation, in line with the Energy Strategy, as well as securing development which is in line with the site-wide Water and Flood Risk Management, Materials and Waste Management, Energy, and General and Industrial Utilities Strategies.

Site Specific Development Principles

4.51 The Master Plan divides the STDC area into a series of development zones. The zones have been shaped by anticipated occupier requirements, location, scale, typology of users, development themes, interdependencies and physical constraints. The following development principles cover these zones:

- STDC11: North Industrial Zone,
- STDC12: North East Industrial Zone,
- STDC13: Central Industrial Zone,
- STDC14: South Industrial Zone, and
- STDC15: Coastal Community Zone.

Tees Valley: Opportunity Unlimited- An Independent Report ('the Heseltine Report') [CD Ref. CD/D/6]

4.52 An independent report was prepared by the Rt Hon Lord Heseltine of Thenford CH in June 2016. The purpose of the report was to identify opportunities to support inward investment in the Tees Valley and to specifically look at the SSI site following its closure. The Report sets out a series of recommendations to support investment in Tees Valley, including, inter alia:

- 1 The South Tees Development Corporation should be established as quickly as possible. The Government should begin engagement with the Combined Authority on how and when ownership and management of the SSI site can be moved to the STDC, including with relevant Her Majesty's Treasury funding agreements, and the agreement of the Combined Authority;
- 2 The Shadow Board should create an ambitious strategy for the area within a year of publication of this report;

- 3 The Tees Valley to continue to work with DECC and BIS (now BEIS) on the Decarbonisation and Energy Efficiency Roadmaps to ensure that Tees Valley experience and expertise influences this work;
- 4 The Teesside Collective should develop a new business case that reflects changed circumstances (i.e. the end of the Carbon Capture Storage Commercialisation Competition and closure of SSI) and clearly sets out the rationale for Industrial Carbon Capture Storage in the area; and
- 5 The Teesside Collective should seek to identify the best potential offshore pipeline network and potential storage site for Teesside's Industrial Carbon Capture Storage emissions.

4.53 It notes that the purpose of the STDC will be to set the future strategy for the area and **to ensure that sites are not looked at in isolation**. It will bring together public and private expertise to ensure that the area realises its full economic potential. (*My emphasis in bold*)

Industrial Strategy: Building a Britain fit for the future [CD Ref. CD/D/10]

4.54 Government published the 'Industrial Strategy: Building a Britain Fit for the Future' White Paper on the 27 November 2017.

4.55 Through the strategy, Government has identified five foundations of productivity which are "*the essential attributes of every successful economy*". These are⁴:

- Ideas (R&D, innovation)
- People (skills and education)
- Infrastructure (broadband, energy, transport)
- Business environment (support for specific sectors and SMEs)
- Places (tackling regional disparities)

4.56 The national Industrial Strategy promotes the development of Local Industrial Strategies, prepared by Mayoral Combined Authorities and supported by Local

⁴ <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7682#fullreport>

Enterprise Partnerships. These local strategies will help identify priorities to improve skills, increase innovation and enhance infrastructure and business growth⁵.

The Tees Valley Strategic Economic Plan: The Industrial Strategy for Tees Valley [CD Ref. CD/D/7]

4.57 The Tees Valley Combined Authority (“TVCA”) and the Tees Valley Local Enterprise Partnership’s (LEP) (Tees Valley Unlimited) Strategic Economic Plan is the Local Industrial Strategy for the Tees Valley. It aims to drive economic growth across the Tees Valley, supporting the creation of 25,000 new jobs and £2.8 billion additional GVA into the economy over the period 2016-2026. The overarching ambition is for Tees Valley to become a high value, low carbon, diverse and inclusive economy.

4.58 The SEP outlines that the target of delivering 25,000 new jobs is over and above the number of existing jobs that will need to be replaced over the next decade due to retirements, migration and natural change. Key sectors driving this growth include:

- Low Carbon/Process, chemical and energy, with a job’s creation target of 2,000;
- Advanced Manufacturing, with a job’s creation target of 1,500;
- Construction with a target of 3,000 new jobs;
- Business & Professional Services, with a target of 7,000 new jobs;
- Logistics, with a job’s creation target of 3,000;
- Digital/Creative industries, with expected job gains of 3,000;
- Higher Education, with expected job gains of 1,000;
- Health and social care, with expected job gains of 3,500; and
- Other services (e.g. retail, culture and leisure) with jobs creation target of 5,000.

4.59 In order to support growth in these sectors in the Tees Valley, the SEP identifies six strategic priorities and associated key aims:

- To diversify the economy, support more business start-ups, develop high growth potential, businesses and key growth sectors;

⁵ Page 220 – Industrial Strategy: Building a Britain fit for the future

- To introduce new processes and practices which reduce carbon emissions, increase productivity and the availability of high value jobs;
- To increase educational attainment, produce the skilled workforce that businesses need and increase lifetime opportunities for residents;
- To accelerate the supply of good quality homes across the whole housing market, revitalise town centres and urban cores, bring forward surplus public and blighted brownfield land for development and strengthen the commercial offer;
- To change external perceptions of Tees Valley through the arts, cultural and leisure offer to create places that attract and retain businesses and business leaders and make the area more attractive to investors, workers and visitors; and
- To improve connectivity within Tees Valley, across the Northern Powerhouse, the UK and the world and ensure comprehensive access to superfast broadband.

4.60 There are clear linkages between the economic ambitions of the SEP and those in the Master Plan, underpinned by the linkages between TVCA and STDC and as recognised in the forward to the Master Plan.

4.61 The regeneration planned through the Master Plan represents a major opportunity in the delivery of the employment growth planned in the Tees Valley. The Tees Valley Strategic Economic Plan (SEP) aims to deliver 2,500 jobs a year, over a 10-year period (2016-2026). The Master Plan aims to create 800 jobs a year over a 25-year period, which equates to approximately one third of the annual target in the SEP.

Tees Valley Investment Plan, 2019-2029 [CD Ref. CD/D/8]

4.62 The Investment Plan sets out the spending priorities of the Combined Authority over the next decade. It outlines how and where £588million of funding will be targeted to priority interventions across the area. As explained in further detail within the Proof of Evidence of Mr Gary McDonald, the Plan allocates £56.5million of funding related specifically to land acquisition and site infrastructure costs at the STDC area. The document states, with specific reference to the STDC area, that:

“The vision will create 20,000 new jobs in Tees Valley; realise a world-class industrial business park that will ensure sustained economic growth for Tees Valley; contribute an additional £1bn per annum into the Tees Valley economy; and, utilising the powers transferred from Whitehall, will transform the area into a global industrial hotspot...Government funding is already in place for elements of this work. The intention is that the acquisition of land will be funded locally and this Investment Plan makes provision for it. Funding for the site redevelopment will be sought from Government.”

Local Industrial Strategy [CD Ref. CD/D/9]

- 4.63 The Tees Valley Local Industrial Strategy (LIS) sets out the Combined Authority’s plan to improve the economic performance of the area and drive an increase in productivity. It is understood that a local draft of the document has been endorsed by the Combined Authority and is to be submitted to Government for negotiation, prior to its completion and formal launch.
- 4.64 In establishing the baseline position within Tees Valley at present, the LIS identifies a number of key economic strengths of the area, including the STDC area. The area is recognised, within the LIS as *“one of the UK’s greatest development opportunities.”*
- 4.65 A series of priority interventions and commitments are identified by the document. These are organised around five interlinked themes, including: *“Attract investment and establish a global reputation for Tees Valley as a vibrant and thriving place to be, with world leading opportunities in clean energy, low carbon and hydrogen.”* The theme is identified as being fundamental to the Combined Authority’s overall priorities. The interventions and commitments identified in relation to this particular theme include:
- A commitment to maximise the potential of the STDC area, with a focus on clean energy, low carbon and hydrogen. A business plan for the site will also be developed to secure “substantial private sector investment”; and
 - Proposals to continue to make the case for establishing a test-bed for Free Trade Zone status at the STDC area.

5.0 **The Scheme: The South Tees Regeneration Master Plan**

- 5.1 The South Tees Regeneration Master Plan [the Master Plan] [CD Ref. CD/F/1] provides the rationale for the comprehensive regeneration scheme underlying the acquisition of the land [the Scheme]. It sets out STDC's objectives for the regeneration of its administrative area and is an articulation of the statutory and non-statutory planning policy framework in place to guide the development of the area (as summarised in section 4.0).
- 5.2 The content and purpose of the Master Plan is covered in detail within the Proof of Evidence of Mr John McNicholas.
- 5.3 The evidence of Mr Guy Gilfillan and Mr McNicholas [Ref. STDC5/2 and STDC2/2] provides further explanation of the importance of carrying out development in accordance with the Master Plan to deliver the regeneration objectives of the area and realise the benefits in the public interests.

Site location and description

- 5.4 The STDC administrative area to which the Scheme relates [the STDC Area] covers an area of approximately 1,800 hectares / 4,500 acres and is located to the south of the River Tees between Southbank and Middlesbrough to the west and Redcar to the south east. To the north and east the site is bound by the sea and the Tees estuary which are in part designated as a SSSI, a Ramsar and a SPA⁶. The entire site is within the local planning authority area of Redcar & Cleveland Borough Council.
- 5.5 The majority of the site is heavily industrial in nature, with evidence of previous steel making and other heavy industry present. Large parts of the site are vacant, albeit with existing structures, while other parts are in use, although are underutilised. The northern and eastern edge of the site include the areas 'South Gare and Coatham Sands' and 'Coatham Marsh', which are open in nature, and provide important habitats for wildlife.

⁶ The relevant designations are the Teesmouth and Cleveland Coast SSSI, the Teesmouth and Cleveland Coast Ramsar site, and the Teesmouth and Cleveland Coast SPA.

The majority of the site is distant from residential areas to the south and any listed buildings or conservation areas.

- 5.6 The site's location benefits from existing major operators including PD Ports Teesport, British Steel and Redcar Bulk Terminal. Wilton International is located outwith the site boundary to the south. The site is well connected to the strategic road network via a series of distributor roads, which provide direct connections into different parts of the site.

The Status of the South Tees Regeneration Master Plan

- 5.7 The Master Plan was endorsed by the STDC Board as the basis for its decision-making to deliver industrial-led regeneration of the area. As explained in the evidence of Mr. Guy Gilfillan [Ref. STDC5/2], it underpins the STDC marketing strategy for the site by demonstrating how a unique proposition would be created to the international industrial market, through the delivery of its objectives in a comprehensive and co-ordinated manner across the STDC Area. It illustrates the character and quality of place being planned for across the area, to be brought forward through development in accordance with the planning policy framework for the area.
- 5.8 The Master Plan does not form part of the statutory development plan though it has closely informed the preparation of, and is aligned with, that statutory policy framework. Local Plan Policy LS4 confirms the Council's commitment to supporting the regeneration of the STDC area *"through implementing the South Tees Area Supplementary Planning Document"*. The accompanying text (at paragraph 3.27) refers to the preparation of a Master Plan by STDC and gives commitment to the Council adopting a Supplementary Planning Document for the South Tees area to help guide development there, including associated infrastructure improvements.
- 5.9 As explained in the South Tees Area SPD (at paragraph 1.5), the Master Plan is a background study that informed the preparation of the SPD's Strategic Development Principles. The Master Plan is, therefore, aligned with those Principles. The SPD goes on to explain that the Master Plan (as a background study) was published for public

- consultation in October 2017 alongside the first draft of the SPD and provides a range of technical information on the area's existing conditions, constraints and opportunities.
- 5.10 Further background studies are, according to the SPD (at paragraph 1.7), to be commissioned by STDC and provide a suite of technical supporting documents (strategies and studies) covering matters such as environment and biodiversity, open space, water and flood risk, transport and waste management. Below, I comment further on the progress of these strategies and studies [the 'Associated Strategies'].
- 5.11 The Master Plan will evolve over time to account for changes in circumstances in the area, namely to account for emerging development projects and committed schemes. As such, it will be kept under review and revised by STDC periodically. Whilst the spatial arrangement of development and use-types illustrated in the Master Plan will change (partly in response to the business / operator enquiries and developments that emerge on the STDC site), the core principles to guide the comprehensive regeneration will not; principles that will ensure the creation of a high quality advanced industrial location capable of competing for investors and operators in the international marketplace.
- 5.12 To date, there have been two iterations of the Master Plan, published by STDC in March 2019 and November 2019. The Master Plan will continue to be updated periodically to reflect factual changes in circumstances affecting the STDC area, such as changes in land ownership and development being carried out therein. It has already been updated to reflect the progress being made by STDC and the emergence of additional interest amongst potential occupiers of the STDC area. The Master Plan will, at all times, guide the creation of a place with a "USP" that will ensure it competes successfully in the international market for industrial businesses and investors.
- 5.13 As such, any changes to the Master Plan will not be so substantial that the Master Plan would become inconsistent with the planning policy framework for the area, namely the Local Plan and the South Tees SPD. In Appendix 3 [STDC4/3], correspondence from the Council confirms that the development planned for in the Master Plan, as updated in November 2019, continues to conform with Local Plan policy and the South Tees Area SPD.

Associated Strategies

5.14 As set out in the South Tees SPD, STDC is committed to completing a range of studies and strategies that will support and guide the effective delivery of the South Tees Regeneration Master Plan. They will:

- identify comprehensive, co-ordinated and coherent solutions to infrastructure delivery across the entire STDC administrative area, with a focus on efficient solutions and maximising potential afforded by the scale of the area and its existing assets;
- ensure the quality-of-place standards illustrated in the Master Plan are met; and
- ensure development is brought forward in an efficient and effective phased manner, through co-ordinated, rather than piecemeal, delivery of buildings, infrastructure and open space / public realm.

5.15 In October and November 2019, STDC commissioned a range of consultants to carry out 11 strategies and studies, including all those identified at paragraph 1.7 of the SPD. Close to £1.5million has been committed by STDC to the completion of these studies:

- 1 Transport
- 2 Environment and Biodiversity
- 3 Port Facilities and Logistics
- 4 Water Flood and Risk Management
- 5 Energy and Utilities
- 6 Ground Remediation
- 7 Materials and Waste Management
- 8 Demolition and Salvage
- 9 Design Guidelines for Public Realm, Heritage and Placemaking
- 10 Design Guidelines for Open Space
- 11 Construction Logistics

6.0 Delivery of the Master Plan scheme

6.1 In this section, I describe how development in line with the Master Plan will be considered through the planning application (or Development Consent Order/DCO) process, as well as explain the role of STDC in the planning process. I outline the likely routes through which development proposals will be determined and then, in the next section, provide a commentary on the main issues that development proposals are likely to raise at planning application stage.

STDC's role and strategy in delivering the Master Plan

6.2 Under Section 202 of the Localism Act, it was open to the Tees Valley Mayor to decide whether STDC was to be the local planning authority for its administrative area. A decision was taken to instead maintain the planning functions of the Council and for STDC to work collaboratively with the Council in developing a policy framework for the STDC area. STDC worked closely with the Council during the preparation of the Local Plan and the South Tees Area SPD, so as to ensure that the Master Plan was accounted for in the SPD.

6.3 STDC meets regularly with the Head of Planning and Development of the Council, including at its monthly Planning and Infrastructure meetings. At those meetings, matters typically discussed include:

- emerging projects and market interest in occupying the STDC site and how those projects fit with the Master Plan;
- the scope of the Associated Strategies being progressed;
- how STDC will involve itself in planning applications, either progressing its own applications submitted in its name, or applications submitted by incoming businesses or developers; and
- the remit of STDC's role vis a vis the function of the Council as local planning authority.

- 6.4 In respect of the Associated Strategies now commissioned by STDC (set out at the end of Section 5.0), STDC agreed with the Council during the preparation of the SPD that it (the STDC) would prepare these non-statutory documents to support the delivery of the Master Plan. These strategies will establish co-ordinated and comprehensive approaches for the effective and efficient management (i.e. mitigation) of matters such as transport impacts, energy use, ground remediation and habitat protection across the STDC area. These strategies would then guide development proposals in advance of planning application submission.
- 6.5 STDC will ensure that the wider site infrastructure, as well as the development standards and place-making qualities as set out in the Master Plan, are achieved. As explained in the evidence of Mr Guy Gilfillan [Ref. STDC5/2], establishing a step change in the quality of the place, to add to and help define the unique offer of the STDC opportunity, is crucial to its successful marketing on an international stage. As explained in the evidence of Mr John McNicholas [Ref. STDC2/2], the place-making qualities and site-wide infrastructure provision could not be planned with any real certainty, whilst their delivery would be significantly compromised, without comprehensive control of land across the STDC area, including the Order land.
- 6.6 For example, STDC has appointed masterplanners, BDP, to develop Design Guidelines for the STDC area, which will define standards and design / architectural parameters for the arrangement of buildings, hard and soft landscaping and infrastructure such as roads, so as to achieve a quality of place as illustrated in the Master Plan. The standards and parameters being set through the Design Guidelines will ensure that the STDC area is a unique proposition in the UK, with an offer that sets it apart from other industrial locations and enables it to compete on an international stage for investors and industrial businesses. Achieving this quality of place, coupled with the attributes of the location, will define the STDC's area's 'USP'.
- 6.7 If large tracts of obsolete land and vacated buildings / structures are left outwith the control of STDC, the place-making qualities will be undermined and the ability to successfully market the STDC opportunity will be significantly compromised.

- 6.8 As another example, the Transport strategy will devise an optimum road network to serve the site with an assumption that the CPO land is available for such, and also making assumptions around development density, associated trip generation and the necessary specification and layout of road and associated infrastructure to serve that upper level of predicted development. If large tracts of land are not within the control of the STDC (or there is no cooperation agreement with those landowners), then the ability to assess and plan the optimum highway solution will be compromised through this uncertainty.
- 6.9 A further example is surface water and habitat / biodiversity management. Having available all land within the STDC Area (either within the control of the STDC or with cooperation agreements with landowners) will enable STDC to plan site-wide strategies for surface water management and ecology / biodiversity mitigation and compensation including off-setting. To deal with such matters on a piecemeal basis, on a site-by-site (or development-by-development) basis will undoubtedly lead to less efficient and effective strategies as individual solutions will be planned and delivered when it would be preferable to identify future-proof solutions, which individual development projects can contribute to / be served by as and when those developments come forward.
- 6.10 In addition, the Master Plan sets out the opportunity to deliver two private wire electricity networks within the STDC Area from on-site / off-grid energy generation. As explained in the evidence of Mr Guy Gilfillan, the availability of a private on-site energy network, where costs of supply are set locally, will be a significant attractor to businesses looking at the opportunity to locate to the STDC Area.
- 6.11 Overall, comprehensive land assembly is required to deliver cohesive regeneration with well-planned infrastructure and 'development ready' sites provided in a timely manner. By owning and controlling the land or working with willing landowners, STDC will be able to ensure that the place-making standards, together with the approaches for the effective co-ordinated and comprehensive development of the STDC area, are achieved.

- 6.12 Importantly, with comprehensive control of the land and its commitments to regenerate it, STDC will be able to assure incoming investors (i.e. businesses locating into the STDC area or developers of land within it) that the overall quality of place is achievable and that there is no risk to their investment, in this regard. In simple terms, developers / investors may question the point of funding certain works and developing to the design / place-making standards illustrated in the Master Plan if there is no certainty that adjacent land will be regenerated to the same standards. More so, developers / investors may simply be put off from locating to the STDC area if there is no certainty over the regeneration of adjacent plots of land.

Planning Applications

- 6.13 STDC envisages that the Master Plan will be realised over a 20+ year period. Planning applications will be submitted to the Council over that period for development in the STDC area. Those applications are likely to comprise:
- Prior Approval applications, most often submitted by STDC, for the demolition of buildings and structures (unless such works is likely to have significant environmental effects such that Environmental Assessment is required under the Environmental Impact Assessment regulations, thus requiring planning permission);
 - Detailed planning applications, submitted by STDC, to carry out engineering operations associated with the clearance and preparation of sites, including excavation and raising of ground levels;
 - Detailed planning applications, submitted by STDC, for site-wide infrastructure provision including roads, drainage and power distribution;
 - Outline planning applications, submitted by STDC, for industrial / business accommodation, where end-occupiers are not yet known (with subsequent reserved matters approvals sought by either STDC or the end-occupiers);
 - Outline planning applications, submitted by end-occupiers, where certain aspects of the design and / or specification of buildings are yet to be finalised; and

- Detailed planning applications, submitted by end-occupiers, where the final specification of buildings and structures are known.

- 6.14 It is expected that most development in the STDC area will be determined locally through planning applications. As explained below and summarised in Appendix 5 [STDC4/3], it is envisaged that a limited number of development proposals will be of such a scale and nature that they are defined as Nationally Significant Infrastructure Projects (NSIP) and, therefore, are required to be determined through the Development Consent Order (DCO) procedure by the relevant Secretary of State (SoS).
- 6.15 Outline planning applications are likely to be used to obtain permission for defined maximum quanta and Use Classes of development ahead of final occupiers being known and their final accommodation requirements defined. For instance, STDC will lease 'development ready' land to a development company, who, in turn, would obtain outline planning permission prior to leasing sites to end users. Reserved matters applications would typically follow outline planning permission to gain approval for detailed design, specific to the end-occupiers' operational requirements.
- 6.16 Detailed planning applications / permissions are likely to be used by STDC to bring forward roads and other fixed infrastructure and to undertake engineering works required to make sites readily developable. Detailed planning permissions are also likely to be sought to develop sites where end-users and their operational and design/specification requirements are known at an early stage.
- 6.17 When planning applications (and DCO applications) are being prepared, STDC will engage with the end-users and are likely to enter into Developer Agreements to establish the extent and range of contributions and commitments that they will make to the comprehensive regeneration of the area, to the place-making standards being set, and to the delivery / utilisation of site-wide infrastructure. The Developer Agreements will also set out the mechanisms through which those contributions / commitments will be secured.

- 6.18 STDC will apply covenants on long lease agreements with developers and /or occupiers to ensure that the place-making qualities / standards and any necessary site-wide infrastructure are achieved through the development phase and thereafter through on-going management commitments.
- 6.19 As explained in the Proofs of Evidence of Mr Dan Aylward-Mills [Ref. STDC7/2] and Mr Gary McDonald [STDC3/2], STDC's investment modelling factors in the costs of delivering the site-wide infrastructure and place-making standards and how those costs can be managed so as to ensure that development remains viable.
- 6.20 The Council will continue to fulfil its duties to secure developer contributions and commitments through planning conditions or legal agreements (i.e. Section 106 or Section 278 agreements). The matters that ordinarily would be covered through Section 106 agreements and planning conditions include public transport improvements, biodiversity / habitat management and local employment / training commitments. These, and other, matters are set out in Local Plan Policy SD 5: 'Developer Contributions' and will be secured by the Council where they are:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 6.21 The Council does not operate a Community Infrastructure Levy and, therefore, is unlikely to be able to secure developer contributions to site-wide infrastructure in the STDC area, where such contributions would not meet the tests in the bullet points above.
- 6.22 In summary, therefore, STDC's use of Developer Agreements will fund / deliver a range of place-making standards and wider, often site-wide, infrastructure requirements that are over and above the 'ordinary' range of matters necessary to make acceptable, in planning terms, individual development proposals. Matters which are necessary in planning terms (i.e. those matters set out in Local Plan Policy SD5), will continue to be secured through legal agreements with the Council.

Delivery of the Master Plan to date

- 6.23 In Appendix 4 [STDC4/3], I summarise a number of schemes that have been granted planning permissions / DCOs or are in the process of seeking approval on land in the STDC area. STDC and the Council has submitted planning applications and secured permissions to prepare land within the STDC area that is within its ownerships, in readiness for development.
- 6.24 In November 2017, a planning application was submitted for the remodelling of the existing highway junction of Smiths Dock Road and Dockside Road, towards the western side of the STDC Master Plan area, including the construction of a new single lane entry carriageway roundabout to create a suitable access to the South Industrial Zone. The junction is designed to accommodate development in that area of up to 300,000sqm.
- 6.25 Key issues considered in the determination of the application included highway safety and capacity, flood risk and drainage, and ecology. The only consultee response on the application was from the Highways Authority, who agreed that the junction would operate within capacity for the level of assumed and assessed development. Permission was granted without delay, within 8 weeks, on 4 January 2018. Works have now been completed on site.
- 6.26 In July 2019, STDC applied for detailed planning permission to carry out site preparation works across 286ha (over 700 acres) of developable land within its control, including the demolition of structures and engineering operations associated with ground preparation. The application was, in part, a response to an opportunity to receive and use significant quantities of residual clean soil arisings (circa 1.14million cubic metres of uncompacted soils) from the excavation of the tunnels forming part of the Sirius Polyhalite Mine project. The soils are to be stored on STDC land and used in the remediation and preparation of land for redevelopment. The storage of the soils in temporary stockpiles also formed part of the planning application.

- 6.27 The main planning considerations raised by the proposals were ecology impacts and drainage. Natural England and the Environment Agency were consulted and no objections were raised to the proposals, subject to conditions being imposed. Planning permission was granted on 27 September 2019, twelve weeks after submission of the application.
- 6.28 STDC is also in discussions with Oil and Gas Climate Initiative (OGCI) in respect of its Clean Gas Project for land currently in the ownership of SSI. The proposed project will consist of a gas fired electricity generating station with an electrical output of up to 2,100 MW, and a carbon capture plant. It will also include a network of CO₂ pipelines and a gathering/booster station to enable CO₂ to be captured from industrial and other facilities on Teesside. The captured CO₂ will be exported, via a high-pressure pipeline, to an offshore geological storage site beneath the North Sea. That project is to be consented through the DCO process as it is of such a scale that it qualifies as a NSIP (see Appendix 4, STDC4/3 for details). It is anticipated that the DCO application will be submitted in late 2020 and a decision made on it in late 2021.
- 6.29 STDC is also advancing proposals for developing a port-based facility on around 70ha of land at South Bank, within the Master Plan area. The facility would be used for heavy load operations and the handling of various components of offshore wind turbines. A planning application is anticipated to be submitted in the first half of 2020.

7.0 Main considerations in the determination process

Planning Applications

- 7.1 Planning applications submitted in the STDC area will be determined in accordance with the statutory Development Plan (summarised in section 4.0) and any other material considerations (a number of which are also summarised in section 4.0). More specifically, planning applications will be assessed against policies in the Local Plan, whilst matters such as the NPPF, the SPD and the Master Plan will be other material considerations. An explanation of how applications will be assessed against the policy criteria and the likely scale of impacts is set out below.
- 7.2 It is likely that most development projects in the STDC area will be determined through planning applications. Some projects, however, may be of such a scale that they are defined as NSIP, requiring determination by way of DCO. A commentary on the DCO process is provided in Appendix 5 [STDC4/3].
- 7.3 In the determination of planning applications (and DCO applications) for development in line with the Master Plan, the main considerations are likely to be:
- 1 Environmental Impact Assessment;
 - 2 Habitats Regulations Assessment and Ecology;
 - 3 Health and Safety Executive Consultation Zones;
 - 4 Local Amenity;
 - 5 Access and Highways;
 - 6 Ground conditions and remediation; and
 - 7 Conformity with the Development Plan and whether other material considerations outweigh conformity.

Environmental Impact Assessment (EIA)

- 7.4 EIA is required for developments, which on the grounds of their nature, scale and location are likely to give rise to significant environmental effects.
- 7.5 The purpose of an EIA is to ensure that the potential environmental effects are identified and factored into the decision-making process. The requirement for EIA applies to both the planning application and DCO application processes. Whilst a different set of regulations govern EIA in relation to planning applications and DCOs, the processes and the impacts requiring assessment are largely the same under both sets of regulations and thus they are described in tandem below to avoid repetition.
- 7.6 For planning applications, EIA is governed by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) as updated by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018. NSIP development proposals are governed by the Infrastructure Planning (Environmental Impact Assessment (EIA)) Regulations 2017 (the IP-EIA Regulations) as updated by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018. By virtue of the nature and scale of NSIPs, most will be 'EIA development' under these regulations.
- 7.7 The need for EIA is limited to those projects which give rise to significant effects and are defined in two Schedules, contained in both sets of regulations. If the proposed project is listed in Schedule 1, an EIA is required in every case, and if it is listed in Schedule 2, an EIA will be required if the determining authority decide that the development is likely to have significant effects on the environment. If an applicant wishes to confirm whether a Schedule 2 development requires an EIA, they can submit a Screening Request to the determining authority prior to submitting the application.
- 7.8 The scope and level of detail of the information to be provided in the ES is determined via the scoping process. Whilst not mandatory, most applicants will request a Scoping Opinion from the relevant determining authority. The scoping process enables the

refinement of the assessment and ultimately the information required to form the ES. It allows for an early identification of the likely significant effects requiring assessment and provides an opportunity to agree where aspects can be scoped out from further assessment. When forming their Scoping Opinion, the Local Planning Authority (or Secretary of State / SoS) must consult with the consultation bodies specified in the appropriate set of EIA Regulations.

7.9 The ES, which will accompany the planning (or DCO) application, is a detailed document, which is key in the determination of the application. In brief, the ES should include the following:

- i A description of the development including a description of its location, its physical characteristics during demolition, construction and operation, the main characteristics of the operational phase and the estimated expected residues and emissions of waste products during construction and operation;
- ii A description of the reasonable alternatives considered by the developer and a justification for selecting the chosen option, including a comparison of the environmental effects;
- iii A description of the relevant aspects of the current state of the environment and their likely evolution without implementation of the development;
- iv A description of the factors specified in the appropriate set of EIA Regulations likely to be significantly affected by the development, in both cases: population, human health, biodiversity, land, soil, water, air, climate, material assets, cultural heritage, including architectural and archaeological aspects, and landscape;
- v A description of the likely significant effects of the development on the environment including direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects;

- vi A description of the forecasting methods or evidence used to identify and assess the significant effects on the environment;
- vii A description of the measures envisaged to avoid, reduce or offset any identified significant adverse effects, and any proposed monitoring agreements;
- viii A description of the potential significant adverse effects of the development on the environment which could arise from major accidents or disasters relevant to the project, including measures proposed to prevent or mitigate such significant adverse effects;
- ix A non-technical summary of the above; and
- x A reference list detailing the sources used for the descriptions of assessments included in the ES.

7.10 There are specific arrangements for considering and determining planning applications that have been subject to EIA, and these are also applicable to the consideration of draft DCOs. The determining authority must consider the adequacy of the information provided, consult on the ES, and take account of the information in the ES and the consultation responses when making their decision.

7.11 For detailed applications, the description of development will be precise and will allow detailed assessment within the EIA. Outline applications often require flexibility so that the development can evolve once an operator/developer is ready to take forward the development. The need for flexibility is identified in a number of the national policy statements and is accepted practice. However, this must be balanced against the need to properly assess the likely significant effects of a proposed development.

7.12 For outline applications, if the applicant wants to build flexibility into their proposal, the approach they have taken will need to be clearly explained for the purpose of consultation and publicity at the pre-application stage. The Environmental Statement will also need to fully explain the need for flexibility and how it has been taken into account in the assessments. The applicant will also need to make sure that there is

consistency across the application documents including any other relevant environmental assessments (e.g. Habitats Regulations Assessments (HRA)).

7.13 For multistage planning consents, Planning Practice Guidance provides clear guidance as to how EIA should be undertaken having regard to case law. It confirms that the likely significant effects should be identified and assessed at the time of the procedure relating to the principal decision (e.g. outline application). However, if the effects are not identified or identifiable at the time of the principal decision, an assessment must be undertaken at the subsequent stage.

7.14 To minimise the requirement for further environmental assessment applications/schemes should adopt the “Rochdale” approach to assessment, which emerged following the *R v Rochdale MBC ex parte Tew* [1999] 3 PLR 74 and *R v Rochdale MBC ex parte Milne* decisions. This requires that for outline applications, permissions should be subject to conditions or other parameters which tie the scheme to what has been assessed. Each option for how a scheme may be developed needs to be properly assessed and should be within the remit of the outline permission.

Potential Mitigation Requirements

7.15 The ES will identify the matters that need to be controlled in order to reduce or remove a significant adverse/beneficial environmental effect. Mitigation and monitoring measures identified in the ES should be reflected in conditions attached to the planning permission (or requirements in respect of a DCO).

7.16 The consultation requirements associated with applications for EIA development will mean that statutory consultees are able to review the information in the ES and their comments will inform the conditions/requirements attached the consent.

7.17 Given the size of the STDC area, there will a series of planning applications submitted (outline and detailed) to redevelop parcels of land within the wider STDC area over a time period of +20 years. Where applications are submitted alongside an EIA it will be necessary to give consideration to cumulative effects of the application proposals with other existing and/or approved projects. Best practice dictates that cumulative schemes

to be considered include those which have planning permission (under construction or committed developments). It is also prudent, although not essential, to consider those schemes currently the subject of a planning application, but not yet determined. There is no requirement to undertake a cumulative assessment of allocations within Local Plans which are not the subject of planning applications or planning permissions. In this context, EIA applications coming forward in the STDC area will have regard to committed developments and application proposals but will not have to consider the longer-term development of the STDC area.

Habitat Regulations Assessment and Ecology

- 7.18 The proximity of the site (and partial overlap with) to the Teesmouth and Cleveland Coast Special Protection Area (SPA), Ramsar site and Site of Special Scientific Interest (SSSI) means that development within the site will need to avoid adverse effects which would undermine the qualifying features of these designations.
- 7.19 As a result, development proposals in the area may be subject to a Habitats Regulations Assessment (HRA) if it is considered that they could have significant effects on the SPA. An HRA is legally required under the Conservation of Habitats and Species Regulations 2017 (the “Habitats Regulations”).
- 7.20 The Screening stage of an HRA involves the determination of the European sites which could potentially be affected by the proposed works and their determining interests, and whether or not the development could result in a likely significant effect, either alone or in combination with other plans and projects.
- 7.21 In the event that likely **significant** effects are identified at the Screening stage, the next stage is to carry out an Appropriate Assessment. This stage involves an objective assessment of whether there would be an **adverse** effect on the integrity of the European Site concerned, in view of the site’s conservation objectives, as a result of a Project or Plan, and the consideration of measures to address any such effect. Case Law has established that, when carrying out Appropriate Assessment, one should:

- i Catalogue all habitats and species for which the European Site is protected;
- ii Consider impacts on other (i.e. non-protected) habitat types or species which are on the European Site; and
- iii Also take into account habitats and species located outside of the European Site if they are necessary to the conservation of the habitat type and species listed for the site.

7.22 In respect of HRA and Appropriate Assessment, it is important to note that the Redcar and Cleveland Local Plan and South Tees Area SPD (2018), which together allocate the site for uses consistent with the Master Plan and provide development principles in line with the Master Plan, were themselves the subject to HRA (and SEA⁷) prior to adoption. Notwithstanding the need for project-level HRAs, this provides a strong degree of confidence that the type, scale and cumulative nature of development envisaged by the Master Plan has already been found to be acceptable in relation to the qualifying interests and conservation objectives of the Teesmouth and Cleveland Coast SPA and Ramsar Site (and the special interest features of the associated SSSI).

7.23 The Local Plan Inspector, within his report [CD Ref. CD/D/1], raised 16 main issues in his assessment of soundness. One of these issues was *'the effect of the Plan's policies and allocations on the Teesmouth and Cleveland Coast SPA and Ramsar Site'*. The main threat to the SPA was considered to be from people walking dogs, which could disturb the bird population. The Inspector considered the evidence base including the Habitats Regulations Assessment Addendum, which concludes that the Recreational Management Plan provides an appropriate framework for mitigation of recreational impacts on the SPA.

7.24 The Inspector noted that Natural England were satisfied that adverse effects on the integrity of the SPA can be prevented and concluded that, subject to modifications, which were included in the adopted Plan, the policies and allocations in the Plan will not

⁷ Strategic Environmental Assessment

adversely affect the integrity of the Teesmouth and Cleveland Coast SPA and Ramsar site.

7.25 The most critical implication of the ecological designations for the delivery of development in line with the Master Plan is the need to demonstrate how development proposals protect and advance the conservation of identified ecological features within each designation.

Potential Mitigation Requirements

7.26 There are a range of potential project-level mitigation and management options, which could be used to avoid likely **adverse** effects and significant harm to the integrity of the ecological designations. The likely measures have been successfully deployed in similar industrial and coastal settings, and in many cases are neither complex nor particularly onerous to implement. The measures include:

- Siting and phasing of construction and operational activities to:
 - Avoid or otherwise minimise intrusive activities within designated areas; and,
 - Retain (and safeguard during construction) existing vegetation and associated habitats where practicable;
- Integration of new development (e.g. buildings and hardstanding) with surrounding landscaping to provide screening and habitat network;
- Maintaining water levels and/or flows in existing watercourses;
- Bespoke construction methodologies, e.g. utilising land-based construction plant and landward methodologies in preference to marine based construction;
- Measures to minimise noise and visual disturbance to species, including noise attenuation barriers, acoustic fencing and visual screening;
- Careful siting and control of artificial lighting, e.g. sensor-controlled flood lights;
- Careful programming of construction activities to minimise disturbance to avoid sensitive bird breeding periods;

- Adoption of low noise or vibration construction techniques (e.g. consideration of alternative piling techniques);
- Restricting vehicle movements to designated haul or operational roads and implementing low speed limits;
- Translocation of specific habitats and species;
- Restricted working hours, in particular for undertaking noisy activities (e.g. piling);
- Restricting the undertaking of noisy operational activities (e.g. steel fabrication) to enclosed buildings;
- Application of dust suppression and monitoring measures in accordance with Institute of Air Quality Management (IAQM) Guidelines (e.g. wheel washing and material covers);
- Deployment of construction and/or operational phase sustainable urban drainage systems;
- Setting of appropriate emissions limit values through operational environmental permits; and,
- Monitoring of water quality and noise and air emissions during construction and operation.

7.27 The examples of measures outlined above will help to ensure that project-level HRAs for individual development proposals in line with the Master Plan could satisfy an Appropriate Assessment, thereby allowing planning permission to be granted (without the need to demonstrate no reasonable alternatives and imperative reasons of overriding public interest). There are clear and robust frameworks in place to facilitate the consenting of appropriate developments in this context.

7.28 At Appendix 6 [STDC4/3], correspondence from Natural England provides a without prejudice view that:

“Based on the latest version of the South Tees Regeneration Master Plan, (provided to us in November 2019), Natural England do not consider the proximity and sensitivity of the proposed extension to the Teesmouth and Cleveland Coast Special Protection Area and Ramsar site, and confirmed extension of the SSSI to be a hindrance to the aspirations of the Masterplan. In so far as habitat protection and enhancement is concerned, there are no obvious reasons why planning permission would not be granted for industrial development in the Master Plan area, subject to there being no loss of designated site extent.”

7.29 Overall, therefore, it is reasonable to expect that development proposals in the STDC area will be determined to comply with Local Plan Policy LS4 and its aim to protect European sites, and safeguard and improve sites of biodiversity interest along the River Tees. Proposals that satisfy HRA Appropriate Assessment stage, as expected, will also conform with Local Plan Policy N4 and Development Principle STDC7 of the SPD.

Health and Safety Executive Consultation Zones

7.30 The Scheme area is located within a heavily industrialised area of Teesside, where there are a number of large-scale industrial plants and pipelines which are classified as hazardous installations.

7.31 The Health and Safety Executive (HSE) sets a consultation distance (CD) around major hazard sites and major accident pipelines after assessing the risks and likely effects of major accidents at the major hazards. These consultation areas are referred to as HSE zones. Within the CD there are three further zones defined, referred to as Inner, Middle and Outer Zones.

7.32 The HSE consultation zones affecting the Scheme area are centred upon industrial operations located both within and beyond the STDC area. The following organisations within the STDC area currently have HSE consultation zones associated with hazardous substances consents:

- South Tees Site Company Limited (formerly SSI);
- SABIC UK Petrochemicals Ltd

- British Oxygen Co. Ltd
- PD Teesport Ltd.

- 7.33 HSE would remove the consultation zones associated with these sites if they were to be notified by the Council that the hazardous substances consents have been formally revoked in accordance with the Planning (Hazardous Substances) Act 1990.
- 7.34 Beyond the STDC area, a number of zones associated with sites at Seal Sands, North Tees and Wilton International, extend into the STDC area. As at November 2019, the STDC area lies within the CD of a total of 19 different major hazard sites (including the four sites within) as well as 8 major hazard pipelines.
- 7.35 In bringing forward development within the Scheme area, the Council will be required to consult with the HSE where the proposal falls within a consultation zone and where the development comprises more than 500sqm of office floorspace, 750sqm of industrial floorspace, 250sqm of retail floor space or comprises transport links. Advice will also be sought on developments around licensed ports, nuclear installations and explosives sites.
- 7.36 This requirement is highlighted in Policy SD4: General Development Principles, which permits development where it avoids locations that would put the environment, or human health or safety, at unacceptable risk. The supporting text to this policy confirms that the Council will seek the advice of the appropriate regulatory organisations, including the HSE on proposals falling within defined consultation zones.
- 7.37 The HSE will provide a response stating the HSE “advises against” or “does not advise against” the grant of planning permission on safety grounds.
- 7.38 In providing their response, HSE has regard to 4 principles:
- 1 The risk considered is the residual risk which remains after all reasonably practicable preventative measures have been taken to ensure compliance with the requirements of the Health and Safety at Work etc. Act 1974 and its relevant statutory provisions;

- 2 Where it is beneficial to do so, advice takes account of risk as well as hazard, that is the likelihood of an accident as well as its consequences;
- 3 Account is taken of the size and nature of the proposed development, the inherent vulnerability of the exposed population and the ease of evacuation or other emergency procedures for the type of development proposed. Some categories of development (e.g. schools and hospitals) are regarded as more sensitive than others (e.g. light industrial) and advice is weighted accordingly; and
- 4 Consideration of the risk of serious injury, including that of fatality, attaching weight to the risk where a proposed development might result in a large number of casualties in the event of an accident.

7.39 To further guide the HSE in making a decision, they have regard to:

- 1 The consultation zone in which the development is located (i.e. which of the three zones that makes up the overall consultation zone); and
- 2 The sensitivity level of the proposed development, which is derived from HSE categorisation system of “Development Types”. There are four levels of development with Level 1 being the least sensitive (e.g. “normal working population” and Level 4 being the most sensitive (large outdoor developments or large facilities for vulnerable members of the public). Further guidance is given in Table 1 of the HSE Land Use Planning Methodology as to how developments are categorised.

7.40 Further considerations apply to more complex cases, such as when the development is located in more than one zone; where more than one major hazard is involved; the proposal involves more than one “Development Type”; and the development involves a small extension to an existing facility.

7.41 The projects coming forward within the Scheme area, in line with the Master Plan, are likely to be Level 1 developments: “normal working population”.

7.42 In preparing the Local Plan, RCBC was required to have regard to the prevention of major accidents, limiting the consequences of such accidents and considering the

appropriate distances between hazardous establishments and population or environmentally sensitive areas. The Council was also required to consider whether additional measures for existing establishments are required to ensure risks to people in the area are not increased.

- 7.43 Allocations were determined having regard to the relevant HSE zones, with information recorded in the Sustainability Appraisal. The HSE was consulted during the development of the plan and whilst some standard advice was received, no objections were raised in relation to the allocations of land within the STDC area.

Potential Mitigation Requirements

- 7.44 For workplace developments within the Inner Zone of the consultation distance of zones, the HSE will advise against the grant of planning permission if:

- the workplace development provides for more than 100 occupants in any one building; and / or
- the building(s) is three or more occupied storeys in height (in which case the sensitivity level for the development is “Level 2”).

- 7.45 In any such instances, modifications could be made to proposals in terms of changing (i.e. reducing to less than three) the number of occupied storeys in a building(s), which would reduce the sensitivity level of the development back to Level 1 and the advice would be revised to “Don’t Advise Against Development”.

- 7.46 There are no obvious reasons for HSE to advise against the grant of planning permission for the type of industrial development illustrated in the Master Plan.

Local Amenity

- 7.47 The nature of the site and surroundings is characterised by large scale industrial development and there are limited residential receptors whose amenity might be affected by development in line with the Scheme.

- 7.48 Nonetheless, the determination of any planning application (or DCO) would give rise to the consideration of the potential for adverse impacts on amenity, including local /

residential amenity. The potential aspects of amenity that could be affected by the type of development proposed in the Master Plan, and thus may need to be addressed by planning applications include noise, smell, loss of sunlight, overshadowing, loss of privacy and change in view (albeit the loss of a private view is not a material planning consideration).

7.49 It is likely that, for any individual planning application, pre-application discussions with planning officers at the Council would establish the type and scope of assessments relating to amenity that may be required to determine the application in line with local and national policies.

7.50 Assessments may be required for any of the aspects of amenity given as examples in paragraph 7.48 above, depending on the nature and scale of the development proposed, and its proximity to sensitive receptors such as residential properties. However, any assessments will need to consider the impact on amenity in the context of the existing surrounding area which is industrial in nature with large scale structures associated with the former steelworks and operational port. Whilst the introduction of development of the type proposed by the Master Plan may lead to some change in outlook and general amenity from residential properties, it is highly unlikely to introduce anything unacceptably incongruous in scale or nature into the existing industrial conditions when experienced from those receptors.

Potential Mitigation Requirements

7.51 Typical mitigation measures can be imposed, through planning conditions and / or legal agreements to ensure that local amenity is protected. This may include measures such as:

- Construction and Environmental Management Plans, which would control and restrict construction phases of development, including hours of construction, demolition and construction techniques and site management;
- Restrictions on the type and colour of facing materials on buildings, to reduce visual impacts;

- Boundary treatments including acoustic fencing, earth mounds/bunding and planting to reduce noise outbreak and reduce visual impacts.

7.52 In this regard, it is fully expected that development proposals, in line with the Master Plan, would be found to conform with Policy SD6 of the Local Plan, where applicable, in respect of the protection of amenity.

Access and Highways

7.53 The Local Plan, supported by the South Tees Area SPD, provides a policy framework to guide the fulfilment of the allocations and the residential and economic growth that is planned for in the Local Plan. The Local Plan has been independently tested and found to be sound (i.e. deliverable). Mitigation (by way of new strategic highway infrastructure) necessary to deliver development has been identified, and policies devised that will ensure mitigation (by way of new local highway infrastructure to specifically serve developments) is identified at planning application stage and for it to be delivered when planning permissions are implemented.

7.54 Planning applications will be guided by these policies and the type, scale and timing of mitigation will be determined by the predicted impacts and timing of specific development projects, factoring in committed development in cumulative impact assessments. However, on a broader level, the range of potential highways mitigation measures identified in the preparation of the Local Plan has been considered and determined (in the examination of the Plan) as not a barrier to the delivery of the Local Plan's planned growth.

7.55 With regard to the opportunities to deliver major employment-generating development in the STDC area, and taking account of the ambitions of the Tees Valley Strategic Economic Plan, the South Tees Area SPD and Local Plan (at Policy TA2) set out the following schemes that are acceptable to Highways England in ensuring that the growth aspirations in the Local Plan can be supported on the strategic road network:

- The extension of Eston Road off the A66 providing a direct access to the Prairie Site in the South Industrial Zone, via a new four-arm roundabout junction, with this

link being extended, in a later phase of the development, to provide a second access to the South Bank site via a new bridge crossing of the Network Rail corridor;

- The existing Bessemer Gate to the Prairie Site is re-opened, helping integrate the Bolckow Industrial Estate (within the South Tees Area) into the wider STDC development, and delivering a direct link to the A66 off Whitworth Road;
- Centrally, a new highway access is proposed off the A66/ Tees Dock Road roundabout (via introduction of a fourth arm), into the Lackenby area of the South Industrial Zone, which is located at the interface with the existing highway corridor and so can be achieved relatively cost-effectively; and
- At Redcar, the new internal highway network will connect to Tod Point Road at Warrenby, where consideration will be given to off-site highway improvements, to enable improved connectivity with Redcar Town Centre.

7.56 In the examination into the Local Plan, it was also demonstrated, with the agreement of Highways England and to the satisfaction of the Local Plan Inspector (see Appendix 7 [STDC4/3]), that significant development can come forward in the Local Plan area in advance of proposed highway improvements without having a severe impact on the highway network.

Potential Mitigation Requirements

7.57 When determining planning applications, the determining authority should ordinarily:

- not be concerned with whether the proposed development will be implemented. Very rarely is it necessary to impose a condition on a grant of planning permission stating the time at which the permission should be implemented (time limiting the implementation of the permission is a different matter). The applicant's ability to fund and deliver the proposed development should not, ordinarily, be a consideration in the determination of a planning application;
- ensure (through condition / legal agreement) that any mitigation required to make the development acceptable in planning terms is delivered at the necessary time ('the trigger point') in the implementation /operation of the development; and

- ensure that conditions of a permission / legal agreement do not require mitigation where there are no prospects **at all** of the mitigation in question being performed within the time-limit imposed by the permission⁸.

7.58 In respect of the first point, the commercial drivers underpinning a development proposal are rarely a material consideration in the determination of a planning application. Demonstrating “need” for a development proposal is, in most instances, not necessary or material to the determination of a planning application and particularly for employment-generating industrial uses on land allocated for such (or for infrastructure required to serve such uses, e.g. road infrastructure).

7.59 In respect of the latter point, the primary consideration is whether the applicant will be able to carry out mitigation on land that they directly control or is in the control of a willing party (i.e. the local / highway authority), rather than other considerations such as whether the applicant has the financial means to fund the mitigation works.

7.60 It is evident that there are no obvious reasons why the scale of the development proposed in the STDC area could not be accommodated on the highway network, modified where necessary. The economic growth planned for in the Local Plan has been accepted by agencies such as Highways England through the examination process of the Local Plan.

7.61 STDC’s ability to deliver the scale and extent of road infrastructure as shown in the Master Plan will ensure that trip-generating uses developed in the area can come forward without causing severe impacts on the highway network or unacceptable impacts on highway safety. The extent of land which STDC would control, through the acquisition of the Order land, would enable on-site road infrastructure to be planned with certainty and, thereafter, provided / extended and managed / maintained.

7.62 Where planning applications are submitted in the STDC area and STDC is not the applicant (i.e. the end-occupier or a developer is the applicant) and where those development proposals give rise to highway improvements beyond the application red

⁸ Planning Practice Guidance, Paragraph: 009 reference ID: 21a-009-20140306, Ministry of Housing, Communities and Local Government

line boundary (though are within the wider STDC area), STDC's control of the land within the STDC area (including the Order land), will assure the Council that any such highway works would be deliverable. Such assurances would then enable the highways works to be secured by way of 'Grampian' style planning conditions and associated Section 278 legal agreements.

Ground Conditions and Remediation

- 7.63 The Master Plan illustrates industrial development on land previously developed for industrial uses and allocated in an up-to-date development plan for industrial development. As explained earlier, the Local Plan allocations have been independently examined and found to be sound (i.e. deliverable without obvious impediments).
- 7.64 In respect of ground conditions and remediation, the local planning authority should (at the time of determining planning applications) have sufficient information to understand the ground conditions to the extent that it is able to impose (most often through planning condition(s)) a suitable approach to managing the construction process and operational stage of the development so as to ensure no risk to human health. The role of the planning system is to ensure that a site is suitable for its new use and prevent unacceptable risk from pollution. The implications of contamination for development should, therefore, be considered though not to the extent that it replicates other statutory regimes such as the Environmental Protection Act, Building Regulations or Environmental Permitting Regulations.
- 7.65 Despite the long history of industrial activity on the sites within the STDC area, previous investigation work and site assessments suggest there to be large areas of land previously occupied by operations of a lower contaminative nature where ground remediation and site preparation requirements will be consequently reduced. Examples are areas previously given over to steel mills with large ground slabs and areas used principally for materials storage, in contrast with the front/heavy end process industries within iron and steel making which are more likely to leave a legacy of localised ground contamination.

- 7.66 Ground Investigations have been carried out across large extents of the STDC area, the results of which have informed the Master Plan. In 2017, ground investigations were carried out by the South Tees Site Company, covering over 220ha (550 acres) of the former SSI landholdings, which are in addition to further ground investigations carried out over the past 40 years across much of the land identified for development in the Master Plan. These desk top studies and ground investigations have evidenced that there will be only localised, discrete and relatively small areas of land where contamination will require remediation intervention, given the industrial re-use planned across the area.
- 7.67 For future planning applications, a combination of Phase 1 ('desk-based') Ground Investigations reports and Phase 2 reports (informed by intrusive investigations) will be submitted to identify risk and establish an appropriate strategy for remediation of sites during construction and on-going thereafter. There is standard practice and is not and unduly complex process.
- 7.68 Already, planning permission has been granted to STDC for site preparation works across some 286ha of developable land currently within its control. The application was accompanied by an Outline Remediation Strategy and resulted in conditions being attached to the grant of planning permission, which I consider to be standard in their requirements:
- to carry out development in accordance with the approved remediation scheme set out in the Strategy; and
 - in the event that contamination is found at any time when carrying out development that was not previously identified, it must be reported to the local planning authority.
- An investigation and risk assessment must be undertaken and where remediation is necessary, a remediation scheme must be prepared and submitted. Following completion of the measures identified in the remediation scheme, a validation report is to be approved by the local planning authority.

- 7.69 Overall, there are no obvious reasons why planning permission would not be granted for development in line with the Regeneration Master Plan, if accompanied by the necessary level of information in respect of ground conditions / contamination.

Conformity with the Development Plan and other material considerations

- 7.70 In this section, I have illustrated a number of the main considerations in the determination of planning applications for development proposals to deliver the Scheme. First and foremost, the land within the STDC area where development is planned (as illustrated in the Regeneration Master Plan) is allocated for B Class employment use development. There is, therefore, a clear and unequivocal presumption in favour of the grant of planning permission for the type of development illustrated in the Master Plan. The NPPF directs local authorities to determine such applications without delay.
- 7.71 The policies of the Local Plan, supplemented by the Development Principles of the South Tees SPD, provide a positive and supportive framework to guide the determination of planning applications. Whilst a number of the statutory policies will influence development proposals by requiring certain standards to be achieved and mitigation to be secured, there are no obvious reasons why the policy requirements would prove unachievable for development proposals at planning application stage.
- 7.72 I have explained how some of the main matters, to be considered in the determination of planning applications, are likely to be satisfied such that the associated policies of the Local Plan are complied with.
- 7.73 There is a legal obligation on the Council to approve planning applications in the STDC area that conform with the statutory Development Plan unless material considerations indicate otherwise. I have not identified any material considerations which could outweigh the conformity with the Development Plan, and indeed, there are a number of material considerations which would find in favour of proposals for development in line with the Master Plan. These include the direction provided by the NPPF for decision-

makers to attach significant weight on the need to support economic growth and productivity, as well as the contribution that development in line with the Master Plan would make to the objectives of national and local industrial and economic strategies summarised in section 4.0.

7.74 Overall, I have explained how key matters can be addressed at application stage in a manner that is ordinary and not unduly burdensome, complex or onerous, resulting in the grant of consents to deliver the type of development envisaged by the South Tees Regeneration Master Plan and planned for through the policy framework of the Local Plan.

8.0 Other consents and licences

- 8.1 With regard to paragraphs 15 and 133 of the Guidance, this section summarises the potential requirement for consents and licences in addition to the need for planning permission. It should be read in conjunction with the opinion of Lorna Baker of Jacobs UK Ltd, which is included at Appendix 6 [STDC4/3].
- 8.2 In respect of bringing forward development as planned for in the Master Plan, where schemes rely upon the River Tees for either physical development and/or associated operations, then Harbour Orders and / or Marine Licenses may well be required. In respect of the inter-relationship of the planning system with such licenses / Orders, the focus of the planning system is on whether the development itself is an acceptable use of the land, and the impacts of those uses, rather than any control processes that are subject to approvals under other regimes. It is to be assumed that non-planning regimes will operate effectively. In this regard, the planning authority, when determining a planning application, should not duplicate the function of regulatory bodies, rather it should ensure that they have been consulted and ensure, before reaching a decision, that they are satisfied with the proposal.
- 8.3 The operation of the planning system, separate to other regulatory systems, is reflected in the approach to planning conditions. Planning Practice Guidance [CD Ref. CD/C/2] makes clear that “*conditions requiring compliance with other regulatory regimes will not meet the test of necessity and may not be relevant to planning*”.
- 8.4 Overall, therefore, any requirement to obtain licences and / or Orders relating to development or operations affecting the River Tees, should not have any bearing on the question of whether there are any obvious reasons why planning permissions might be withheld for development to deliver the Scheme.
- 8.5 The opinion provided at Appendix 6 [STDC4/3] confirms that the obtaining of necessary Orders and licences to carry out works that affect, and to operate on, the River Tees, as part of development in the STDC area, should not be unduly onerous and there are no obvious reasons why such Orders and licences should not be granted ordinarily.

9.0 Benefits of the Scheme

- 9.1 Bringing the CPO land into the control of the STDC, which is committed to, and capable of its comprehensive regeneration (together with its own landholdings and working with willing landowners in the STDC area), will deliver significant environmental, social and economic benefits to the local area, the region and the UK.
- 9.2 In respect of environmental benefits, by controlling the Order land, STDC would be able to plan and deliver a level of environmental enhancement and place-making standards that it feels will create an exemplar advanced industrial park location that can compete for investment opportunities on a global scale. Not only would land be decontaminated to a level suitable for industrial end-users, STDC will facilitate development in line with its Master Plan, which would be a step-change in environmental value and quality of place.
- 9.3 The Associated Strategies will build on the Master Plan and define a standard of place and a strategy for the optimum, effective, use of existing and new site-wide infrastructure, which will future-proof the site and be capable of serving (and /or mitigating) many future phases efficiently and coherently. Developers and end-users locating at STDC will be expected to make contributions to these site-wide solutions through Developer Agreements with STDC (and through S106 Agreements with the Council for certain contributions that are directly necessary to mitigate the direct effects of the individual developments proposed).
- 9.4 STDC's control of the Order land (and it then being able to apply the site-wide infrastructure solutions and place-making standards being set by the Master Plan and Associated Studies to all of the STDC area), will enable STDC to give assurances to incoming developers and end-users that their contributions towards such site-wide infrastructure and environmental standards will not be undermined by areas close by being left in abandoned and / or significantly underutilised states.
- 9.5 Many of the Development Principles set out in the South Tees SPD are intended to be complied with either through co-ordinated agreement of land owners or single

ownership of the land to enable the delivery of comprehensive strategies across the site, such as a green infrastructure strategy and an approach to net environmental gains (STDC7), upgrading of the private highway network in the STDC area (including to existing and new port facilities at the RBT site) (STDC5), and a phased approach to developing cleared sites (or sites with less demolition requirements) and areas requiring less site preparation in the early years (STDC3).

9.6 A central tenet of the South Tees SPD is to develop the area in a way that maximises its regeneration potential through a co-ordinated and coherent approach to delivering infrastructure and business accommodation. Achieving disparate pockets of development at the expense of sterilising (or significantly weakening the regeneration potential) of other parts of the STDC area is guarded against in the SPD. The SPD sets out the Council's position on this (in STDC2) where it states that “...*development that has the potential to stymie or prevent further phases of development, or to reduce the market demand for land to be taken up, and /or to adversely affect the ability to provide infrastructure essential to the delivery of later phases of development / occupation, will be resisted.*”

9.7 The Associated Strategies being worked up on behalf of STDC, which will take the Master Plan to a more granular level of detail, are being produced on the assumption that the CPO land is available to deliver site-wide infrastructure and mitigation solutions. As explained in section 5.0, inclusion / control of the Order land will benefit the Scheme by enabling the optimum, most effective solutions to be devised and implemented, whether that be transport infrastructure, surface water management, biodiversity / habitat management or a consistent and comprehensive set of design and place-making standards.

9.8 In respect of economic benefits, when the Master Plan was first prepared, it was estimated that its implementation could generate 20,000 new job opportunities. The evidence presented to this Inquiry by Dan Aylward-Mills explains how this could quite realistically comprise over 12,500 jobs directly within the STDC area and over 7,000

jobs indirectly created. The potential to create this level of jobs would be less if parts of the site are left undeveloped and outside of the control of STDC as they would:

- fail to create job opportunities directly on those parcels;
- reduce market interest in developing and occupying land in proximity to those undeveloped areas; and
- limit or prevent optimum site-wide infrastructure from being provided. The resulting outcome being that more land would likely be given over to supporting and / or mitigating infrastructure, reducing the overall development (and job) density of the area.

9.9 The social benefits of the scheme go beyond the benefits arising from greater economic prosperity in the local area. The comprehensive control of the area will end years of feelings of uncertainty within the local community arising from landowners unwilling and (financially) unable to manage the land. It is vitally important to the communities of Redcar and Tees Valley that a permanent, sustainable, solution is delivered quickly to resolve the ongoing issue of safe-keeping of the area. It is not sustainable and does not provide acceptable assurances to the local communities, to carry on indefinitely managing the area under the terms of its COMAH status. To return the entire site to an economically productive, environmentally attractive and publicly accessible and safe place will be a significant boost to the social well-being of the area.

10.0 Other Matters of Relevance

10.1 In this section, I summarise a number of key aspects which, together with the preceding sections, lead me to conclude as to whether there is a compelling case in the public interest for the making of the CPO.

Clear Proposal

10.2 There is a clear proposal for the land which I have described elsewhere in my evidence as the CPO scheme – the comprehensive regeneration of the STDC area in accordance with the objectives of the South Tees Regeneration Master Plan and the planning policy framework for the area. This Scheme, its necessity and benefits are described at length in the various Proofs of Evidence submitted on behalf of STDC to this Inquiry.

Funding

10.3 The fact that funding is committed to the Scheme, as addressed in the Proof of Evidence of Mr. Gary McDonald [Ref. STDC3/2], shows the necessary resources are available to deliver the Scheme.

10.4 STDC has sufficient financial standing and a robust investment fund model to both acquire the necessary rights and to deliver the CPO scheme. It has obtained planning permission for site access infrastructure and to carry out site preparation on land that it currently controls. It already has funding secured for early phases of site preparation on land at the Prairies.

Alternatives and Failure to Acquire the CPO land

10.5 The Guidance, at paragraph 132, advises that:

“In reaching a decision on whether to confirm a section 42 order, the Secretary of State will take into account the statutory objectives [of the urban development corporation set out in paragraph 119 above] and consider...

ii. what alternative proposals (if any) have been put forward by the owners of the land or other persons for regeneration.

10.6 However, the mere existence of an alternative proposal does not if itself prevent there being a compelling case in the public interest for the proposal. The fact that an alternative proposal may give rise to different or lesser effect does not erode the public interest test in the submitted scheme. As Maurice Kay LJ stated in *R. (Clays Lane Housing Cooperative Ltd) v. Housing Corp* [2005] 1 WLR 2229 at [25]:

“If ‘strict necessity’ were to compel the ‘least intrusive’ alternative, decisions which were distinctly second best or worse when tested against the performance of a regulator’s statutory functions would become mandatory. A decision which was fraught with adverse consequences would have to prevail because it was, perhaps quite marginally, at least intrusive. Whilst one can readily see why that should be in some Convention contexts, it would a recipe for poor public administration in the context of cases such as Lough v First Secretary of State and the present case.”

10.7 Therefore, whilst alternatives will normally be considered and evaluated when judging whether there is a compelling case in the public interest for the CPO scheme, even if there are alternative proposals, they may not provide the basis for proper objection to the CPO if, for example:

- 1 They are less certain in the delivery of the objectives which underpin the public interest basis for confirming the CPO, e.g. because they do not secure certain delivery of the objectives of the Scheme in the public interests, or lack the relevant permissions or consents, or generally lack certainty in the delivery of relevant proposals in the public interest;
- 2 Will delay the implementation of the CPO scheme where a timely delivery of the proposals is in the public interests; or
- 3 Will not deliver the public interest benefits of the CPO scheme as well or as effectively as that scheme, or in the timely manner of the scheme, where those differences in delivery of benefits and timing are material ones having regard to the public interest.

- 10.8 Indeed, *Bexley LBC v. Secretary of State* [2001] EWHC Admin 323 at para. [44], [47] & [48] makes it clear that the Secretary of State and the Courts consider that the creation of delay and uncertainty in considering alternative proposals put forward in support of CPO objections is a highly material consideration in rejecting the objections and confirming the CPO. If there are compelling public reasons for the delivery of the Scheme, the delivery of alternatives may cause delay and uncertainty in the delivery of the scheme and its public benefits which may not be considered to be acceptable.
- 10.9 The CPO Scheme has been taken forward because it is the solution to achieving comprehensive, commercially viable and successful, redevelopment of the STDC area, fully meeting the object for which STDC was set up. In terms of alternatives, the evidence of Mr. John McNicholas [Ref. STDC2/2], Mr. Dan Aylward-Mills [Ref. STDC7/2], Mr. John Knowles [Ref. STDC6/2] and Mr. Guy Gilfillan [Ref. STDC5/2], explains the adverse implications upon the regeneration commitments of STDC from either failing to control all of the land in the STDC area or having landowners unwilling to work with the STDC to deliver its regeneration objectives.
- 10.10 In summary, for the following reasons, the failure to acquire the CPO land and the alternative of seeking to develop out part of the STDC area currently in the control of STDC is not a viable option and would fail to achieve the purposes for which the STDC was established:
- The attractiveness of the STDC location as an investment opportunity would be diminished amongst the type of businesses which STDC is targeting and who have already expressed interest in locating here; market-interest would be significantly adversely impacted;
 - The ability to plan and deliver the optimum, most effective, solutions to site-wide infrastructure and mitigation measures would be significantly undermined. Crucial infrastructure, such as a site-wide highways network to connect development plots and the riverside, could either not be provided or would be significantly compromised;

- STDC's ability to assure potential incoming developers / operators would be significantly undermined, when it is seeking to obtain commitments from those parties towards funding site-wide infrastructure and achieving high standards of design and place-making;
- STDC's inability to recycle receipts from development on the CPO land would cause a reprofiling of the investment fund (given that it has been assumed that around 595ha / 1,470 acres of the CPO land has potential to generate rental income (as explained in the evidence of Mr Dan Aylward-Mills (Ref. STDC7/2), slow down delivery of regeneration across the wider STDC area and create a larger funding deficit, potentially to be met by the public purse;
- Overall, it would undermine the Local Plan policy objectives for the area, which are to plan and deliver industrial development in a comprehensive and cohesive manner, avoiding piecemeal development and maximising the development and regeneration potential of the entire area to which the South Tees SPD applies.

10.11 There have been no alternatives put forward by objectors, landowners or any other party which are capable of fulfilling the STDC's objectives of delivering comprehensive regeneration of the area.

10.12 I consider that the evidence, collectively provided on behalf of STDC, demonstrates that there are no suitable, viable or deliverable alternatives and the proposed Scheme represents the most appropriate solution to address all of the various issues and to deliver the required regeneration outcomes.

Human Rights

10.13 A compulsory purchase should only be made where there is a compelling case in the public interest. The MHCLG CPO Guidance makes it clear that an acquiring authority should be sure that the purposes for which it is making the compulsory purchase order justify interfering with the human rights of those with an interest in the land affected.

10.14 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...”

10.15 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 CPO Scheme has been brought to the attention of the affected owners /occupiers and extensively discussed with them.

10.16 As explained in the evidence of Mr. Michael King [Ref. 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. Mr King's evidence highlights the significant efforts made by STDC and their advisors to engage with all affected parties.

10.17 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 Scheme, of which the CPO 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).

- 10.18 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 CPO Scheme throughout this Proof of Evidence and have drawn conclusions from all the evidence presented on behalf of STDC.
- 10.19 Any interference with a right protected by the 1998 Act / the Convention 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 this Order, STDC has carefully considered the balance to be struck between individual rights and the wider public interest.
- 10.20 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 CPO 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.
- 10.21 Any interference with interests otherwise protected by Convention rights is, I consider, to be justified in order to secure the regeneration and improvements that the CPO Scheme will bring.

11.0 Conclusions on Public Interest

11.1 There is a general requirement to demonstrate a compelling case in the public interest in CPO cases, which has been expressed differently over time and which has formed part of national policy for years. This test is said to encapsulate the common law constitutional significance of the expropriation of private property interests as well as the requirements of proportionality and fair balance.

11.2 Paragraph 13 of the Guidance states:

“The minister confirming the order has to be able to take a balanced view between the intentions of the acquiring authority and the concerns of those with an interest in the land that it is proposing to acquire compulsorily and the wider public interest. The more comprehensive the justification which the acquiring authority can present, the stronger its case is likely to be.

However, the confirming minister will consider each case on its own merits and this guidance is not intended to imply that the confirming minister will require any particular degree of justification for any specific order. It is not essential to show that the land is required immediately to secure the purpose for which it is to be acquired, but a confirming minister will need to understand, and the acquiring authority must be able to demonstrate, that there are sufficiently compelling reasons for the powers to be sought at this time.

If an acquiring authority does not:

- Have a clear idea of how it intends to use the land which it is proposing to acquire;*
and
- Cannot show that all the necessary resources are likely to be available to achieve that end within a reasonable time-scale*

it will be difficult to show conclusively that the compulsory acquisition of the land included in the order is justified in the public interest, at any rate at the time of its making”.

- 11.3 Although the importance of the rights being balanced is emphasised in the consideration of the above, the critical point in the decision is the weighing of the public interest with the private rights and the decision whether the former is sufficiently significant to outweigh the latter.
- 11.4 As clearly set out throughout my evidence, there is a compelling need for the acquisition of the land to enable the comprehensive regeneration of the STDC area in line with its object. Confirmation of the CPO would facilitate implementation of the CPO Scheme and, in turn, lead to comprehensive regeneration of vast swathes of derelict and under-used land, resulting in significant economic, social and environment benefits.
- 11.5 There are no planning impediments to the implementation of the CPO Scheme. The evidence of others has demonstrated that there are no other impediments to the CPO Scheme. The CPO is capable of being funded and will be implemented as soon as practicably possible following the acquisition of all necessary rights following the confirmation of the CPO.
- 11.6 The implementation of the CPO scheme will fulfil the planning Local Plan policy allocations for the area and realise a significant range and extent of social, environmental and economic benefits that the Local Plan (supported by the South Tees Area SPD) plans to deliver in the authority area. I also conclude that the delivery of development across the CPO land and the wider STDC area, in line with the Master Plan will directly support other local economic, industrial and investment strategies in operation across the TVCA area, which are material to the determination of planning applications in the STDC area.
- 11.7 A Local Plan has statutory status and is the vehicle through which sustainable development is planned for. It is intended to provide certainty to developers / investors and local communities as to how social, environmental and economic wellbeing is to be achieved in a given area. Failure to acquire significant tracts of land within the STDC area would significantly undermine the Local Plan objective of maximising the development and regeneration potential of the area. Failure to deliver the Local Plan, in

this regard, would be of significant detriment to the wellbeing of the local area and undermine the plan-making process.

- 11.8 From a planning perspective, I consider that there is a compelling case in the public interest for the confirmation of the CPO.

12.0 Response to Objectors

12.1 The objections made to the CPO by Tisco Bank, Krungthai Bank and Siam Commercial Bank [the Thai Banks], Sahaviriya Steel Industries PLC [SSI] and the Royal Bank of Scotland [RBS] are, by and large, the same. (The paragraph numbers referred to below correspond with those in the objection from SSI). In respect of planning and the consenting processes, they make the following comments:

“the acquiring authority does not know when or how it will use the land” (paragraph 3.7)

12.2 This is a somewhat curious statement given that these objections go on to recognise the existence of the South Tees Regeneration Master Plan, which provides a detailed articulation of how STDC intends to use the land. STDC presented the Master Plan to the Thai Banks in late 2017 following its formal launch by STDC in October 2017.

12.3 On 18 October 2017, the STDC published a draft version of the Master Plan for a period of public consultation that closed on 8 December 2017. Following this consultation, the South Tees Area SPD Consultation Draft was prepared and consulted upon between 26 March and 22 April 2018, together with associated documents including the Master Plan.

12.4 At no time during either the presentation of the draft Master Plan by STDC to the Thai Banks or during these consultation exercises did SSI, the Thai Banks or RBS engage in the Plan-making process and submit comments on the emerging Master Plan and SPD.

“there is simply no basis for concluding that acquisition of land by compulsion will accelerate or improve the likelihood of regeneration as against what is likely to occur over the same 25-year period in the absence of exercising compulsory purchase powers” (paragraph 3.5).

12.5 In response, I am of the view that the Local Plan, as supplemented by the South Tees Area SPD, is correct in its support of the use of CPO in order to comprehensively redevelop the STDC area and maximise its regeneration potential. A practical example of this is as follows.

- 12.6 The largest part of the former SSI landholdings is the former Redcar Works complex towards the eastern side of the STDC area. It provides road access to the Redcar Bulk Terminal (RBT) land on the riverside to the north. The Redcar Works complex itself, however, does not connect directly with the road network outside of the STDC area by way of any public highway. It is reliant upon access via private roads in the ownership of STDC.
- 12.7 I understand there to be a complex and, in some cases, undocumented rights of access over the road network within the Order Land and wider STDC Area.
- 12.8 If the former SSI land were to be excluded from the CPO, there could be uncertainty over the future developability of that land, given that if the necessary rights of access do not exist then it would essentially be landlocked from the public highway. The appetite of potential developers and / or businesses to invest in the former SSI land, including the steelworks complex, could well be reduced if it were necessary to obtain highways / access rights from third parties at great expense.
- 12.9 As with the OGCI Clean Gas project, one way of securing such highways rights is through the Development Consent Order process, however, this process will not be suitable or available to smaller-scale development proposals.
- 12.10 Bringing the former SSI land at the Redcar Works complex into the control of STDC will give certainty over the future accessibility of the entire eastern part of the STDC area and enable a new highway network to be developed to serve development plots in the North and North East Industrial Zones. Management and maintenance of a new highway network could then be carried out effectively by a single controlling party, namely STDC, rather than there being disparate (and potentially uncertain) management of the network by a number of land owners.
- 12.11 Conversely, if the former SSI land at the Redcar Works complex is not brought into the control of STDC and planned comprehensively with the wider site, then any strategy to provide the optimum road network solution within the STDC area would be undermined. Opening up both the land at the Redcar Works complex and RBT by way of a new spine

road and estate roads, as per the Master Plan, around which development plots can be formed, will significantly increase the attractiveness of this site to potential incoming developers / operators.

- 12.12 When comparing a “do nothing scenario” on the former SSI / Redcar Works complex with the outcome of its acquisition by STDC, it is evident that regeneration will indeed be accelerated by the latter.

“The acquiring authority has not...obtained any planning permissions for any part of the CPO land.” (paragraph 3.8.2)

- 12.13 The guidance makes clear that when land is being acquired, by way of CPO, for regeneration purposes (such as by urban development corporations), it is accepted that it will not always be possible or desirable to have specific proposals for the land beyond the general framework for the regeneration of the area and that detailed land use planning (i.e. the grant of planning permissions(s)) will not necessarily have been resolved before making an Order. This is the situation here with the STDC's scheme. It is not necessary to have obtained planning permissions on the Order land and this evidence explains how there are no obvious reasons as to why planning permission would not be granted.

“Without the deep water port (RBT) forming part of the Scheme, there is no prospect of the “North Zone” or the “Northern Industrial Zone” of the Master Plan being delivered in anything resembling the form on which the Order is predicated...The exclusion of the deep water port and associated land is precisely such an “obvious reason” which wholly undermines at least the Northern Industrial Zone” (paragraph 3.21)

- 12.14 The STDC has determined the extent of land that it believes to be in the public interest to acquire through compulsory purchase. The RBT land is coming forward for development that will contribute to regeneration and economic growth, through projects including the Sirius harbour facility. At this current time, STDC does not see it is in the public interest to acquire this land. It has entered into a Memorandum of Understanding

with RBT to work jointly for the benefit of delivering development and creating jobs and investment.

- 12.15 Contrary to the view of the objector, the absence of including the RBT land in the Order does not create an obvious reason as to why planning permission would not be granted for development in the North Industrial Zone. There are no obvious reasons for the RBT land to feature in, or provide, any mitigation necessary to make development acceptable in planning terms within the North Industrial Zone. If the objectors consider that the exclusion of the RBT land would somehow diminish the viability or commercial attractiveness of development in the North Industrial Zone, any issues around delivery of development proposed in the Zone should not be a material consideration in the grant of planning permission.

“...The wharf reconstructions and creation of a new quay would require a substantial range of statutory authorisations, potentially including a Development Consent Order, Harbour Modification Order, together with dredging and Crown consents. The availability of such Orders is not addressed, and the Statement of Reasons offers no clear route to delivery of the Southern Industrial Zone.” (paragraph 3.24)

The objectors are overplaying the complexity of obtaining Harbour Orders and Marine licences. The opinion provided in Appendix 6 [STDC4/3] to this proof of evidence, by Jacobs UK Ltd, sets out how there are no obvious reasons for such licences and Orders not to be granted, where required to deliver development in line with the Master Plan.

13.0 Summary and Conclusions

- 13.1 There is no statutory requirement to have regard to the development plan, any planning permissions granted and other material planning considerations, when considering the confirmation of the CPO; nonetheless planning policy remains a material consideration in the determination of whether there is a “*compelling case in the public interest*” for the CPO. However, I have already outlined the planning processes, how planning issues would be expected to be addressed, and how development proposals brought forward as planned for in the Master Plan would be likely to be in conformity with the development plan, without there being any obvious material considerations that outweigh the conformity.
- 13.2 For the reasons I have addressed, any current absence of planning permission is not an impediment to the Scheme. I have set out in the preceding sections my assessment of the processes and key issues in the determination of planning applications (and DCOs) and explained how issues can be addressed to enable permissions (and DCOs) to be granted (made).
- 13.3 Planning permissions have already been granted to start and prepare land, which STDC currently controls, for regeneration. Whilst planning permissions are yet to be granted to deliver regeneration, by way of buildings and infrastructure, in the STDC area in line with the South Tees Regeneration Master Plan, there are no obvious reasons to suggest that permissions would not be granted / made.
- 13.4 I have considered the main issues that development proposals are likely to raise in the determination process and how these can be addressed, including through mitigation that would not be unduly complex or onerous. I have used examples of projects in the STDC area to support this conclusion.
- 13.5 Whilst not part of the planning process, I have also explained how other necessary consents relating to development in proximity to, and affecting, wharfs and waterways.
- 13.6 I have tested the type of development being planned for in the Master Plan against policies in the Development Plan and conclude that the type of development is in

accordance with those policies. On that basis, such development proposals should be approved without delay, particularly given that the Development Plan is up-to-date and was found to be sound and deliverable through an independent examination held in late 2017, which I consider to be relatively recently and with no significant changes in circumstances since that Plan was adopted. I have outlined a range of material considerations which all support the grant of planning permission (and any DCOs).

13.7 My evidence and that of others demonstrates that there are no other impediments to the CPO scheme.

13.8 I consider that there is a compelling case in the public interest for the confirmation of the CPO.