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Dear [REDACTED],

PLANNING ACT 2008

PROPOSED NON-MATERIAL CHANGE TO NET ZERO TEESSIDE ORDER 2024 DEVELOPMENT CONSENT ORDER 2024 - S.I. 2024 NO 174 AS CORRECTED BY NET ZERO TEESSIDE (CORRECTION) ORDER 2024 – S.I. 2024 NO 1384 AND AS AMENDED BY NET ZERO TEESSIDE (AMENDMENT) ORDER 2025 – S.I. 2025 NO 1143

1. I am directed by the Secretary of State for Energy Security and Net Zero (“the Secretary of State”) to advise you that consideration has been given to the Application (“the Application”) which was made by Net Zero Teesside Power Limited and Net Zero North Sea Storage Limited (“the Applicants”) on 30 March 2026 for changes which are not material to be made to the Net Zero Teesside Order 2024 (S.I. 2024 No. 174) (“the Order”) under section 153 of, and Schedule 6 to, the Planning Act 2008 (“the 2008 Act”). This letter is the notification of the Secretary of State’s decision in accordance with Regulation 8 of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 (as amended) (“the 2011 Regulations”).
2. The original application for development consent under the 2008 Act was granted consent on 16 February 2024¹. Consent was granted for the construction and operation of onshore elements of the proposed full chain carbon capture, usage and storage project. The consented development comprised a number of elements including a new gas-fired electricity

¹ https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-002914-Decision%20Letter_Net%20Zero%20Teesside%20Project.pdf

generating station (with an electrical output of up to 860 megawatts) with post combustion carbon capture plant; gas, electricity and water connections (for the electricity generating station); a carbon dioxide (CO₂) pipeline network (a 'gathering network') for gathering CO₂ from a cluster of local industries on Teesside; a high pressure CO₂ compressor station and an offshore CO₂ export pipeline. On 20 December 2024, the Secretary of State issued a Correction Order correcting minor drafting and typographical errors within the Order.²

3. On 19 March 2025, the Applicants applied under Schedule 6 to the Planning Act 2008 for a non-material change to the Order, seeking amendments to the authorised development, including revisions to the CO₂ gathering network, works areas and associated infrastructure. Following consultation and consideration of the application, the Secretary of State concluded that the proposed amendments constituted non-material changes and made the Amendment Order on 28 October 2025.³
4. On 30 March 2026, the Applicants applied under Schedule 6 to the Planning Act 2008 for the Application; a second non-material change to the Order seeking further amendments to the authorised development. The Application seeks a change to the design parameters set out in Schedule 15, Table 14 of the Order:
5. Change No 1 (i): Increase in the maximum inner diameter of the absorber stack from 6.6 metres ('m') to 7.0 m; and
6. Change No 1 (ii): Increase in the maximum inner diameter of the Heat Recovery Steam Generator (HRSG) stack from 6.5 m to 9.0 m.
7. For both stacks, the change to the inner diameter corresponds to an equivalent change to the outer diameter, as the stacks comprise single-wall steel sheet construction. Aside from Change No. 1 part (i) and (ii) noted above, no other changes are sought by the Applicants in the Application. All other maximum dimensions for key buildings and structures found within Schedule 15 'Design Parameters' of the Order will remain the same. Following detailed engineering design, the Applicants identified that increases in the stack diameters are required to meet the engineering requirements of the plant. The proposed non-material changes are therefore sought to facilitate these requirements. The Applicants consider that these changes do not give rise to any new or materially different environmental effects to those originally assessed as part of the Application for the Order and therefore can be characterised as non-material.

² https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-002945-uksi_20241384_en.pdf

³ [https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-002985-The%20Net%20Zero%20Teesside%20\(Amendment\)%20Order%202025.pdf](https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-002985-The%20Net%20Zero%20Teesside%20(Amendment)%20Order%202025.pdf)

Summary of the Secretary of State's decision

8. The Secretary of State has decided under paragraph 2(1) of Schedule 6 to the 2008 Act to make non-material changes (“NMCs”) to the Order to **authorise** the changes as detailed in the Application.

The Applicants' consultation and responses

9. In accordance with Regulation 7 of the 2011 Regulations, the Secretary of State agreed to a reduced consultee list on 26 January 2026.⁴ The Secretary of State considered that the Applicants' approach to consultation was proportionate to the proposed changes. In accordance with the requirements of Regulation 7 of the 2011 Regulations, the specified parties were notified of the Application on 1 April 2026.
10. The Applicants published a notice of the Application in accordance with Regulation 6 (publicising the Application) of the 2011 Regulations (the “Regulation 6 notice”) for two consecutive weeks in the Teesside Gazette and Northern Echo on 2 April 2026 and 9 April 2026 and the Darlington and Stockton Times on 3 April 2026 and 10 April 2026. The Application was also made publicly available on the Planning Inspectorate's (PINS) website, such that there was an opportunity for anyone not notified to also submit representations to PINS. The Applicants also published the Regulation 6 notice.⁵ The deadline for receipt of representations on the Application was 15 May 2026.
11. The Applicants submitted a Consultation and Publicity Report as required by Regulation 7A of the 2011 Regulations on 2 June 2026, which states that the Applicants have complied with all necessary steps set out in Regulations 6 and 7 of the 2011 Regulations in respect of stakeholder consultation and its public engagement approach. This was published on the PINS website on 26 June 2026.⁶
12. Two responses were received during consultation from specified Interested Parties; Natural England (“NE”) ⁷ and the Environment Agency (“EA”) ⁸ whose responses are discussed below.

4 [https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-002995-REGULATION%207\(3\)%20Net%20Zero%20Teesside%20PDF.pdf](https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-002995-REGULATION%207(3)%20Net%20Zero%20Teesside%20PDF.pdf)

5 <https://www.netzeroteesside.co.uk/consultation/>

6 [https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-003017-NZT%20NMC2%20-%20Consultation%20and%20Publicity%20Statement%20\(2nd%20June%202026\).pdf](https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-003017-NZT%20NMC2%20-%20Consultation%20and%20Publicity%20Statement%20(2nd%20June%202026).pdf)

7 <https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-003015-545486%20-%20NZT%20non-material%20amendments%20to%20DCO%20-%20NE%20response.pdf>

8 https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-003014-EA_NMC2%20_OFFICIAL_08.06.26.pdf

13. The Secretary of State considered the representations received in response to the consultation and did not consider that any further information was required from the Applicant or that any further consultation was necessary.
14. All representations have been published alongside the Application documents and this decision letter. The Secretary of State's consideration of the points raised is set out below.

The Environment Agency

15. The EA had no objection to the proposed non-material changes to the Order.

Natural England

16. In its consultation response, NE agreed with the conclusions in the Applicants' "Appendix A: Air Quality Technical Note", that the proposed changes in the Application will not result in an increase of nitrogen deposition to the Teesmouth and Cleveland Coast Site of Special Scientific Interest ("SSSI") above the amount that was taken into account in the ES chapter 8, which was submitted as part of the Applicants' application for development consent. NE stated that the air quality impacts presented in the Air Quality Technical Note are in line with the impacts it was consulted on as part of the Environment Agency's environmental permitting process. NE stated that the Air Quality Technical Note concluded that the worst-case scenario would result in a significant increase of nitrogen deposition to the SSSI and would require mitigation and/or compensation. NE further stated that it is working with the Applicants to develop a suitable compensation strategy, as part of the environmental permitting process, and that this compensation strategy should equally apply to the impacts raised in the Air Quality Technical Note. NE further stated that it is the responsibility of the Department for Energy Security and Net Zero ("DESNZ") to consider whether the compensation measures secured through the environmental permitting process sufficiently protect the SSSI or if compensation should equally be secured as part of any development consent order amendments.
17. The Applicants responded to NE's consultation response ⁹ to clarify and reiterate the conclusions of their assessment, which identified the potential for a marginal increase in nitrogen deposition, as a result of the proposed NMCs under a worst-case abnormal operation scenario only. The Applicants explained that the increase in deposition is relevant to the habitat features of the SSSI. They further explained that the mechanism for compensating for the potential impacts to the SSSI that may arise from the marginal increase in nitrogen deposition, if the worst-case scenario is realised during the operational phase of the development, has been discussed and agreed with NE and will be fully secured through the environmental permitting regime. To align with the precautionary principle, the Applicants stated they have committed to providing compensation for an initial period, followed by a

⁹ <https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-003016-NZT%20NMC2%20-%20Applicant%20Letter%2008.06.26.pdf>

process of verification of the impacts, to evaluate whether the compensation is to be continued or can be concluded. This is detailed on Page 57 of Annex 1 to the Application. The Applicants noted also NPS EN-1, paragraphs 4.12.9 and 4.12.10, which state:

4.12.9 In considering an application for development consent the Secretary of State should focus on whether the development itself is an acceptable use of the land or sea, and the impact of that use, rather than the control of processes, emissions or discharges themselves.

4.12.10 The Secretary of State should work on the assumption that the relevant pollution control regime and other environmental regulatory regimes, including those on land drainage, water abstraction and biodiversity, will be properly applied and enforced by the relevant regulator. The Secretary of State should act to complement but not seek to duplicate those regulatory regimes, but without prejudice to the Secretary of State's duty to 'secure' compliance with the relevant regulatory Requirements.

18. The Applicants consider that duplication of compensation measures across the DCO and the environmental permit is disproportionate and would create an onerous duplication across regimes contrary to the NPS which is unnecessary. The Applicants noted also that securing compensation measures through the Environmental Permit is consistent with the approach taken to date by the regulators in respect of the Net Zero Teesside project and is the appropriate approach in this case.

The Secretary of State's Consideration of the Responses Received

19. The Secretary of State has considered the consultation responses received from the EA and NE. Additionally, the Secretary of State has considered the Applicants' response to NE's consultation response.
20. The Secretary of State notes the EA has no objection to the Application.
21. Regarding the response from NE, the Secretary of State has noted that NE is working with the Applicants to develop a suitable compensation strategy. The Secretary of State has concluded that it is sufficient for compensation measures for the protection of the SSSI to be secured through the environmental permitting process and that it is not necessary or proportionate to also secure compensation by amending the Order. The Secretary of State agrees with the Applicant that duplication between the DCO and the environmental permitting process would be contrary to the NPS and would be unnecessary and disproportionate in this instance.

Consideration of whether the changes requested are non-material

22. The Secretary of State has considered whether the Application is for a material or non-material change. In doing so, the Secretary of State has had regard to paragraph 2(2) of

Schedule 6 to the 2008 Act which requires the Secretary of State to consider the effect of the change on the Order as originally made.

23. There is no statutory definition of what constitutes a 'material' or 'non-material' amendment for the purposes of Schedule 6 to the 2008 Act and Part 1 of the 2011 Regulations.

24. To assist in determining whether a proposed change is material or non-material, guidance has been produced by the Department for Communities and Local Government (now the Ministry of Housing, Communities and Local Government), entitled the "Planning Act 2008: Guidance on Changes to Development Consent Orders" (December 2015) ("the Guidance").¹⁰ The Guidance makes the following points:

- (a) given the range of infrastructure projects that are consented through the Planning Act 2008, and the variety of changes that could possibly be proposed for a single project, the Guidance cannot, and does not attempt to, prescribe whether any particular types of change would be material or non-material;
- (b) however, there may be certain characteristics that indicate that a change to a consent is more likely to be treated as a material change. Four examples are given in the Guidance as a starting point for assessing the materiality of a proposed change, namely:
 - i. whether an update would be required to the Environmental Statement ("ES") (from that at the time the Order was made) to take account of new, or materially different, likely significant effects on the environment;
 - ii. whether there would be a need for a Habitats Regulations Assessment ("HRA"), or a need for a new or additional licence in respect of European Protected Species ("EPS");
 - iii. whether the proposed change would entail compulsory acquisition of any land that was not authorised through the Order; and
 - iv. whether the proposed change would have a potential impact on local people and business (for example, in relation to visual amenity from changes to the size and height of buildings; impacts on the natural and historic environment; and impacts arising from additional traffic).
- (c) although the above characteristics indicate that a change to a consent is more likely to be treated as a material change, these only form a starting point for assessing the materiality of a change. Each case must depend on thorough consideration of its own circumstances.

25. The Secretary of State has considered the change proposed by the Applicants against the four matters set out in i to iv above:

- i. The Secretary of State considers that the information supplied supports the Applicants' conclusions that there are no new, or materially different, likely significant effects from those assessed in the ES, including with respect to air quality.

¹⁰ [Planning Act 2008: changes to Development Consent Orders - GOV.UK](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/484211/Planning_Act_2008_guidance_on_changes_to_development_consent_orders.pdf)

Considering the analysis supplied by the Applicants and responses to the consultation (discussed further at paragraphs 28 to 34 below), the Secretary of State concludes that no update is required to the ES as a result of the proposed amendments to the Order.

- ii. In respect of the HRA, the Secretary of State has considered the nature and impact of the change proposed (as discussed further at paragraphs 35 and 36 below). The Secretary of State is satisfied that there is no change to the conclusions of the HRA as a result of the proposed amendments and therefore a new HRA is not required. The Secretary of State is also satisfied that the proposed change does not bring about the need for a new or additional licence in respect of EPS as the amendments sought are not anticipated to give rise to any new or different effects from an ecological perspective than those assessed for the original application.
 - iii. In respect of compulsory acquisition, the Secretary of State notes that the proposed changes do not require any additional compulsory purchase of land.
 - iv. In respect of impacts on local people and businesses, the Secretary of State notes that no changes are anticipated by the Applicants to the impacts already assessed in the ES.
26. The Secretary of State therefore concludes that none of the specific indicators referred to in the guidance, or other relevant considerations, suggests that the changes considered in this letter are material changes.
27. Taking the information provided and responses received from consultees into account, the Secretary of State is therefore satisfied that the changes considered in this letter are not material and should be dealt with under the procedures for NMCs.

The Secretary of State's Considerations

Environmental Impact Assessment

28. The Secretary of State has considered whether the Application would give rise to any new significant or materially different effects when compared to the effects set out in the ES for the development authorised by the Order.
29. The Secretary of State is satisfied that the information provided by the Applicants is sufficient to allow him to determine the Application.
30. The Secretary of State has considered all relevant information provided and the comments of consultees. The Secretary of State agrees with the Applicants' conclusions that there will not be any new or materially different likely significant effects when compared to the effects set out in the ES for the development authorised by the Order.
31. As there are no new significant environmental impacts as a result of the proposed change, the Secretary of State considers that there is no requirement to update the ES.
32. The Secretary of State does not consider that there is any need for consultation on likely significant transboundary effects in accordance with Regulation 32 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

Other Environmental Considerations

Landscape and Visual

33. The Secretary of State has considered the Applicants' submitted Landscape and Visual Technical Note and concludes that the proposed changes do not give rise to any new or materially different likely significant effects in terms of landscape and visual impacts.

Air Quality and Emissions

34. The Secretary of State has had regard to paragraphs 4.12.9 and 4.12.10 of NPS EN-1, which state that, in considering applications for development consent, the secretary of state should proceed on the basis that the relevant pollution control and environmental regulatory regimes will be properly applied and enforced by the relevant regulator. NPS EN-1 further advises that the Secretary of State should act to complement but not seek to duplicate those regulator regimes. In light of this, the Secretary of State considers that any air quality impacts arising from proposed development/changes will continue to be appropriately addressed through the Environmental Permitting process, including the securing of any necessary mitigation measures. The Secretary of State therefore considers that it would be unnecessary and disproportionate to duplicate such measures within the DCO.

The Habitats Regulations

35. The Secretary of State has considered the relevant requirements as set out in the Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations"). The Habitats Regulations require the Secretary of State to consider whether the Development would be likely, either alone or in combination with other plans and projects, to have a significant effect on any site within the national site network, known as "protected sites". If likely significant effects cannot be ruled out, then an Appropriate Assessment must be undertaken by the Secretary of State, pursuant to Regulation 63(1) of the Habitats Regulations, to address potential adverse effects on site integrity. The Secretary of State may only agree to the Application (subject to Regulation 64) if he has ascertained that it will not adversely affect the integrity of a protected site.
36. The Secretary of State has considered the information submitted in the Application and the comments of consultees and is satisfied that the proposed changes do not alter the conclusions set out in the Applicants' ES and the Secretary of State's HRA for the Order, and therefore a new HRA is not required.

General Considerations

Equality Act 2010

37. The Equality Act 2010 includes a public sector equality duty. This requires a public authority, in the exercise of its functions, to have due regard to the need to (a) eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic (e.g. age; sex, sexual orientation, gender reassignment; disability; marriage and civil partnerships;¹¹ pregnancy and maternity; religion or belief; and race) and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
38. The Secretary of State has had due regard to the need to achieve the statutory objectives referred to in s149 of the Equality Act 2010 and is satisfied that there is no evidence that granting this Application will affect adversely the achievement of those objectives.

Human Rights Act 1998

39. The Secretary of State has considered the potential infringement of human rights in relation to the European Convention on Human Rights, by the amended development. The Secretary of State considers that the grant of development consent would not violate any human rights as enacted into UK law by the Human Rights Act 1998.

Secretary of State's conclusions and decision

40. The Secretary of State has considered the ongoing need for the Development and considers that the project continues to conform with the policy objectives outlined in the Overarching National Policy Statement for Energy (EN-1) and National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2), National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4) and National Policy Statement for Electricity Networks Infrastructure (EN-5). The Secretary of State considers this conformity applies to both 2011 and 2024 iterations, the latter of which is now in force. The need for the Development remains as set out in the Secretary of State's letter of 16 February 2024.
41. As such, for the reasons set out in the paragraphs above, the Secretary of State is satisfied that the Applicants' request is acceptable in order to allow change to design parameters as follows: Change (i): Increase in the maximum inner diameter of the absorber stack from 6.6 m to 7.0m. Change (ii): Increase in the maximum inner diameter of the Heat Recovery Steam Generator (HRSG) stack from 6.5 m to 9.0 m. Furthermore, the Secretary of State considers

¹¹ In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

that the Applicants have demonstrated that the proposed changes will not result in changes to the conclusions of the ES that accompanied the original Application.

42. For the reasons given in this letter, the Secretary of State considers that there is a compelling case for authorising the proposed changes to Schedule 15, Table 14 of the Order. The Secretary of State is satisfied that the changes requested by the Applicants are not material changes to the Order and has decided under paragraph 2(1) of Schedule 6 to the Planning Act 2008 to make a NMC to the Order to **authorise** the changes detailed in the Application.

Challenge to decision

43. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at the Annex to this letter.

Publicity for decision

44. The Secretary of State's decision on this Application is being notified as required by Regulation 8 of the 2011 Regulations.

Yours sincerely,

John Wheadon

John Wheadon

Head of Energy Infrastructure Planning Delivery & Innovation

ANNEX

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 (5) of the Planning Act 2008, a decision under paragraph 2(1) of Schedule 6 to the Planning Act 2008 to make a change to an Order granting development consent can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the Planning Court during the period of 6 weeks beginning with the day after the day on which the Order is published. The Amendment Order as made is being published on the date of this letter on the Planning Inspectorate website at the following address:

<https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010103>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655).