



The Planning Inspectorate  
Temple Quay House  
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Our Ref  
RJM/RJM/208728.0001  
Date  
24 February 2025

**By Email**

Dear Sir

**Application by H2 Teesside Limited (H2T) for an Order granting Development Consent for the H2Teesside (H2T Project)**

**Planning Inspectorate Reference: EN070009**

**Interested Party Reference Number: 20049392**

**Deadline 8 Submission**

This submission is made on behalf of Lighthouse Green Fuels Limited (**LGF**) in respect of the proposed H2T Project. LGF is in the process of seeking to promote sustainable energy, via the production of sustainable aviation fuel, through its Lighthouse Green Fuels project (**the LGF Project**), which is intended to also be located within Teesside. As part of the LGF Project, LGF is keen to utilise low carbon hydrogen at the facility, where possible. In addition, as the Applicant is also aware, LGF also currently owns substantial assets on its site including assets which have the capability to generate electricity.

LGF supports the principle of the H2T Project and, in particular, that the H2Teesside proposals include the necessary infrastructure and associated powers to distribute low carbon hydrogen. This support is subject to its concerns relating to assets in the area as well as compulsory acquisition of land being fully addressed in a private agreement.

**Update on protective provisions**

LGF submits at this deadline:

- A clean copy of LGF's preferred protective provisions.

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- A tracked copy of LGF's preferred protective provisions which sets out the changes made to the Applicant's submitted version within their D7a DCO [\[REP7a-003\]](#). We note that in the interest of minimising the differences between the Applicant's preferred version and those of LGF, LGF is not pursuing certain points. Those pursued are those that LGF considers are strictly necessary. The amends made are precedented positions in respect of other made DCOs. Outstanding issues between the Applicant and LGF are highlighted yellow.

LGF was only provided with draft protective provisions at Deadline 7. LGF provided an update on its position with respect to protective provisions and land acquisition at Deadline 7a [\[REP7a-058\]](#).

There has been no substantive change since that Deadline and the Applicant is yet to agree protective provisions or the necessary private agreement. On 13 February 2025, LGF provided comments to the Applicant on the protective provisions included for the benefit of LGF in Schedule 39 to the draft DCO submitted by the Applicant at Deadline 7 and requested some amendments to those provisions. These comments were made subject to a private agreement being entered into.

The Applicant did not incorporate the majority of these changes in their submission of the draft DCO at D7a [\[REP7a-003\]](#).

LGF would like bring to the Examining Authority's attention that at various points of the Applicant's position statement in relation to LGF [\[REP7a-034\]](#), the Applicant makes the claim that LGF is agreeable to various amendments. This is incorrect. As set out above, LGF's position was that LGF is only amenable to certain amendments in the protective provisions on the face of the DCO if there is sufficient protection provided in a private agreement. While the Applicant has repeatedly assured LGF that draft documentation of a private agreement will be shared, this has not yet occurred. As such, LGF considers it necessary to secure these protections in the DCO.

### **Lighthouse Green Fuel's explanation of proposed changes**

The below table sets out a justification for LGF's requested amendments and explains why such amendments are necessary. For ease of reference, the numbering and description of the issues is the same as those identified by the Applicant in the Applicant's position statement in relation to LGF [\[REP7a-034\]](#) and are identified in comments on the tracked copy of LGF's preferred protective provisions.

LGF has been actively attempting to progress negotiations with the Applicant so that an agreed version of the protective provisions could be submitted into examination. Unfortunately, this has not been possible.

LGF understands that the Examining Authority will not be rewriting protective provisions and will be recommending one of the versions which is presented to them by the end of the Examination. In order to provide the Examining Authority with comfort that LGF's preferred protective provisions are reasonable, LGF has proactively narrowed the scope of outstanding issues as far as possible and only sought to continue to pursue those amendments that are strictly necessary.

The issues that LGF is no longer pursuing within the protective provisions in the DCO (despite maintaining that LGF's initial position is preferable for the safeguarding of LGF's interest) are highlighted



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blue in the table of amendments and listed below (note, the paragraph referred to is that in LGF's preferred protective provisions):

- Issue 3 - Scope of rights for construction of alternative apparatus (para 6(2))
- Issue 4 - No Interruption (para 7(2))
- Issue 5 - Co-operation between LGF and the Applicant (para 7(1))
- Issue 7 - Costs and losses (para 10 – "reasonable")
- Issue 8 - Scope of expenses (para 10(1))
- Issue 9 - Deduction of excess expenses (para 10(3))
- Issue 10 - Removal of Deduction where Contractor permitted to dispose of apparatus (para 10(6))
- Issue 11 - Scope of damage leading to costs (para 11(1))
- Issue 13 - Consequential losses (para 11(2))

LGF has had to give up its pursuit of the above issues in the PPs on the face of the DCO notwithstanding the delays by the Applicant in progressing a private agreement. Any further changes to these PPs would expose LGF to the risk of being unprotected on critical issues on which it has been unable obtain the Applicant's engagement.

Issue and relevant paragraph in LGF's preferred protective provisions	LGF's justification for amend
1. Definition of apparatus (para 2)	<p>The Applicant's addition of "at the date of the Order" to the definition of "apparatus" is considered to be overly restrictive and unprecedented.</p> <p>LGF notes that this restrictive approach is not included in the Applicant's protective provisions for other interested parties. There is no restriction on these parties acquiring new apparatus which will benefit from the PPs, and LGF should not be put in a different position. Nor is such restriction common in other DCOs and was not included in the Net Zero Teesside Order 2024.</p> <p>The Applicant only appears to envision changes to apparatus as a result of the upcoming DCO application by LGF and considers that paragraph 15 (para 14 in the Applicant's version) of the protective provisions provides sufficient protection. While paragraph 15 relates to future assets, these provisions are intended to ensure that co-operation continues with the two</p>



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Issue and relevant paragraph in LGF's preferred protective provisions	LGF's justification for amend
	<p>parties whilst there may be overlapping construction timescales. However, these provisions in paragraph 15 are not detailed provisions to address interactions by H2T with LGF's apparatus like the other provisions in the Schedule.</p> <p>The adoption of the Applicant's drafting would severely disadvantage LGF as LGF would not receive any protection if any changes to its apparatus are required within the ordinary course of business following the date of the Order, for example even the replacement of an existing pipe as a result of wear and tear would not be protected if the Applicant's version of the PPs is accepted. These apparatus should be afforded protection under the protective provisions and LGF should not be afforded lesser protection than other similar parties. The approach adopted by the Applicant is unprecedented and greatly prejudices the business of LGF.</p>
2. Acquisition other than by Agreement (para 5)	<p>LGF considers that the restriction on acquisition of apparatus except by agreement should be inserted into Schedule 39.</p> <p>LGF note that this provision is precededented and was included in the protective provisions for the benefit of numerous parties in the Net Zero Teesside Order 2024 including Air Products Plc. LGF has added a specific reference here to both parties acting reasonably to provide the Applicant with comfort.</p>
3. Scope of rights for construction of alternative apparatus (para 6(2))	<p>The additional wording that LGF previously sought to include in paragraph 5(3) would have provided more clarity as to the scope of rights for construction of alternative apparatus and would have caused no disadvantage to the Applicant or LGF.</p> <p>However, in the interest of minimising the differences between the Applicant's preferred version and those of LGF, LGF will no longer pursue this point.</p>
4. No Interruption (para 7(2))	<p>Any interruption of LGF's use of these apparatus or alternative apparatus could have significant implications on LGF's operations and the clarificatory wording LGF previously sought to include as para 7(2) would have provided LGF additional certainty that its supply would not be interrupted.</p>



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Issue and relevant paragraph in LGF's preferred protective provisions	LGF's justification for amend
	<p>However, in the interest of minimising the differences between the Applicant's preferred version and those of LGF, LGF will no longer pursue this point.</p>
5. Co-operation between LGF and the Applicant (para 7(1))	<p>LGF previously sought more detailed provisions in para 7(1) to provide a specific methodology to follow when the project works interact with the apparatus to minimise the risk of interference and disputes.</p> <p>However, in the interest of minimising the differences between the Applicant's preferred version and those of LGF, LGF has agreed to omit the detailing of the specific methodology. LGF has also agreed to retain the language preferred by the Applicant i.e. "use reasonable endeavours" as opposed to "work-co-operatively".</p> <p>LGF has only restructured the paragraph to improve the clarity of the drafting.</p>
6. Application of paragraph 8	Issue resolved between the parties
7. Costs and losses (para 10")	<p>LGF had previously sought the addition of "costs and losses" to this paragraph but accepts deletion.</p>
8. Scope of expenses (para 10(1))	<p>LGF had sought to include additional clarification as to the costs and expenses that would be covered by paragraph 10as LGF should not be exposed to any expenses or costs as a result of the works.</p> <p>The Applicant in its position statement in relation to LGF <a href="#">[REP7a-034]</a> set out at 8.3 that "The list is sufficiently broad to cover the types of expenses LGF may incur as a result of the works being referred to."</p> <p>On that basis LGF will no longer seek its previously requested amendments to this paragraph.</p>
9. Deduction of excess expenses (para 10(3))	<p>The Applicant fails to consider the scenario where LGF is disadvantaged as a result of the Applicant's failure to obtain existing apparatus. LGF had sought additional wording in this paragraph as LGF should not be financially</p>



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Issue and relevant paragraph in LGF's preferred protective provisions	LGF's justification for amend
	<p>liable where the Applicant has decided to purchase higher value equipment than that which is needed for LGF, in a scenario where the existing apparatus is available. The wording sought was also precededented within the Applicant's draft DCO for other parties and is also precededented in the protective provisions for the benefit of parties in the Net Zero Teesside Order 2024.</p> <p>However, in the interest of minimising the differences between the Applicant's preferred version and those of LGF, LGF will no longer pursue this point.</p>
10. Removal of Deduction where Contractor permitted to dispose of apparatus (para 10(6))	LGF had sought to include additional wording in this provision to better clarify the scope of expenses. However, in the interest of minimising the differences between the Applicant's preferred version and those of LGF, LGF will no longer pursue this point.
11. Scope of damage leading to costs (para 11(1))	While LGF considers the wording it previously sought is reasonable in the interest of minimising the differences between the Applicant's preferred version and those of LGF, LGF will no longer pursue this point.
12. Scope of costs (para 11(1))	Issue resolved between the parties
13. Consequential losses (para 11(2))	LGF had previously sought the deletion of the restriction on claiming consequential losses, however in the interest of minimising the differences between the Applicant's preferred version and those of LGF, LGF will no longer pursue this point.
14. Application of Schedule to Certain Apparatus (para 13)	Issue resolved between the parties
15. Access (para 14)	Issue resolved between the parties
16. Meaning of 'reasonable endeavors' (para15(2))	Issue resolved between the parties



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Issue and relevant paragraph in LGF's preferred protective provisions	LGF's justification for amend
17. Description of 'Tees Valley Project' (para 15(4))	The suggested wording is too narrow in terms of definition for LGF's project and prevents any future changes that may be needed in the project. In the interest of minimising the differences between the Applicant's preferred version and those of LGF, LGF has made the minimal amendments.

### LGF position on specific plots

In relation to the compulsory acquisition of land some progress has been made. The Applicant has provided LGF with more information in relation to the compulsory acquisition of plot 9/41 and more information in relation to plot 9/16 and the extent of land acquisition. However, as the Applicant has not yet agreed formal documentation which appropriately secures this assurance and information, and on the basis that no meaningful progress has been made in respect of a private agreement, LGF maintains its objection to the acquisition of plot 9/41 and 9/16 of the Land Plans.

Yours faithfully



**For and on behalf of Broadfield Law UK LLP**

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