

OPERATIONAL IMPACT

**The Orsted Hornsea Project Three (UK) Limited (Ferry Road, Hartlepool)
Compulsory Purchase Order 2023**

STATEMENT OF EVIDENCE

**SEAN BEACH
OPERATIONS MANAGER HARTLEPOOL
PD TEESPORT LIMITED**

1. **QUALIFICATIONS AND EXPERIENCE**

- 1.1 My name is Sean Beach and I am the Operations Manager at Hartlepool Dock.
- 1.2 I have worked for PD Teesport Limited and its predecessors for 39 years in various operational roles and have been an Operations and Dock Manager since 2003.

2. **INTRODUCTION AND SCOPE OF EVIDENCE**

- 2.1 The structure of my statement of evidence is set out in paragraph 2.3 below.
- 2.2 In broad terms my statement will explain the operational impact that the proposed acquisition of new rights will have on Hartlepool Dock.
- 2.3 My statement of evidence is structured as follows:-
- Section 3 sets out the background to this Statement;
 - Section 4 sets out details relating to the Affected Land;
 - Section 5 sets out the impact on PDT's operation as a statutory undertaker;
 - Section 6 sets out my summary and conclusions;
 - Section 7 is the declaration for my statement.

3. **BACKGROUND**

- 3.1 PD Teesport Limited ("PDT") is the statutory harbour authority ("SHA") for specific areas of the River Tees and adjacent land and the Port of Hartlepool ("the Port"), which includes Hartlepool Dock.
- 3.2 The Port is the fifth largest in the UK and the only major port in England to handle more exports than imports. It supports 22,000 jobs and contributes £1.4 billion to the UK economy each year. The Port, of which Hartlepool Dock is part, is a key piece of national infrastructure, and plays a critical role facilitating the nation's trade. The PD Ports Group is one of the largest private employers in the Tees Valley.
- 3.3 As an operational port, flexibility of its estate is required to properly service customer needs. This is illustrated by the fact that PDT has historically closed and re-routed roads within the Hartlepool Dock Estate, together with closing roads and re-routing access points as and when it has a commercially operational requirement.

- 3.4 By way of example, Greenland Road was previously open to all public traffic. In 1996 30% of Greenland Road was closed for the construction of a railway embankment when the dual carriage way known as Marina Way was constructed. The remaining 70% was closed temporarily from 2003-2005 for a long-term project.
- 3.5 A decision to close Greenland Road permanently was discussed in 2006 and agreed in 2007 and it remains closed to this day with many commercial contracts being agreed which provide for storage/operational use on this area. A plan can be found at **Appendix 1** which shows the road and location of the gates preventing access.
- 3.6 PDT is obliged to comply with the International Ship and Port Facility Security (ISPS) Code (as must all operators at the Port that have working jetties where ships come alongside). I understand that the ISPS Code was developed in response to the 9/11 attack on the World Trade Centre in New York to provide for tighter security around all forms of travel.
- 3.7 The ISPS Code came into force in 2004; it prescribes responsibilities to governments, shipping companies, shipboard personnel, and port facility personnel to detect security threats and take preventive measures against security incidents affecting ships or port facilities used in international trade.
- 3.8 As part of its compliance with the ISPS Code (see **Appendix 2**), PDT must erect specific ISPS compliant fencing around its operational areas, with the area contained within the boundary fencing being classed as a "Restricted Area". The land over which Orsted Hornsea Project Three (UK) Limited ("Orsted") is seeking a right of way currently lies in this Restricted Area, the extent of which is shown on the plan at **Appendix 3**.
- 3.9 In addition, any access into a Restricted Area must be controlled in accordance with the ISPS Code. Any third party coming into or through Hartlepool Dock (such as Orsted's agents and contractors who would require access to the land owned by Orsted) would be required to present themselves at the Hartlepool Dock main entrance for security purposes. Once such persons reach the Orsted owned land, such land not being within the ISPS boundary, any gateway onto that land would create another access into the ISPS boundary. That access point would therefore need controls to be put in place (including a security cabin and CCTV) to bring the access point up to the same standard as PDT secures all other access onto port land. Such accesses would need to be secured using the same operations and in accordance with the same guidelines as any other access into PDT's ISPS Restricted Area.

- 3.10 This has been achieved previously in respect of other bodies needing the same access types, but it would not be compatible with the access rights which Orsted is seeking pursuant to the CPO. PDT would require a minimum of 72 hours' notice and a mechanism to recover the cost of monitoring that access point to the same standard as any other access onto PDT's land. PDT would be able to enable this by the use of a single point of entry and pass systems.
- 3.11 PDT also holds a Customs Wharf and Temporary Storage Approval for Hartlepool Dock (issued by UK Border Force) ("Customs Wharf Approval") in respect of customs requirements relating to the movement of goods to be imported and exported outside of UK and Northern Ireland across the customs border. This also requires certain levels of security around the perimeter of the site.
- 3.12 The disputed access to Orsted's land, being the former yacht club site, has been blocked off at the point where the public highway ends since April 2023, initially with concrete blocks and then with a fence in December 2023. (See further details at paragraphs 4.3-4.5 below.)

4. THE AFFECTED LAND

- 4.1 Orsted is seeking to acquire rights over a part of PDT's operational port land at Hartlepool (the "Hartlepool Dock Estate") in order to gain access to the site of the former yacht club (which it purchased in 2021) where it intends to construct and maintain Artificial Nesting Structures ("ANS") for kittiwakes.
- 4.2 The land over which Orsted is seeking to acquire rights (the "Affected Land") is located to the south east of the Hartlepool Dock Estate and is within the ISPS boundary.
- 4.3 Although, as a matter of fact, the former yacht club was historically accessed via the road over which Orsted is seeking a right of way, throughout the period of its ownership of the port, and whilst this access was in use, PDT routinely closed the access for at least one day a year, in order to ensure that neither the yacht club nor any other member of the public could claim to have acquired rights over it by prescription. Consequently, as the freehold owner of the Hartlepool Dock Estate and in operating the port at this location, PDT has the ability to close the access at any time, and indeed to freely change and re-route roads, access routes and alter how the land within the Hartlepool Dock Estate is utilised.
- 4.4 Currently, the Affected Land is being used for heavy plant access to and from a storage area which is incompatible with use for access by third parties due to health and safety implications. However, depending upon

port operational requirements the Affected Land could be used for a variety of activities.

- 4.5 Whilst the Affected Land appears to be an existing access route from an aerial view, the position on the ground is that the land is simply port operations land that has previously been used as an access route and is now utilised for heavy plant access.

5. **IMPACT ON THE PORT'S OPERATION AS A STATUTORY UNDERTAKER**

- 5.1 As Michael McConnell explains in his statement, PDT objected to Orsted's application for planning permission for the use of the former yacht club as an ANS at both the local authority and appeal stage. Whilst noting that PDT's objections were not upheld by the Inspector, PDT remain of the opinion that Orsted's site is not appropriate for its intended use of an ANS for kittiwakes due to the various and clear grounds already highlighted within objections submitted at the Planning Application stage with the local authority and again at the Appeal stage with The Planning Inspectorate.
- 5.2 PDT has not been provided with any comfort from Orsted that the ANS will not interfere with our operations at Hartlepool now or in the future. Orsted has stated that 'Our ecologists think the chance of additional kittiwakes choosing to nest in the port area, instead of our proposed structures, is very low'. No evidence has been provided to substantiate this statement.
- 5.3 In its proposed Compulsory Purchase Order ("CPO"), Orsted has requested new rights of access over PDT's port operational land shown blue on Orsted drawing number 205906_PLN_CPO_2.1; copy at **Appendix 4**.
- 5.4 PDT considers that the impact of the acquisition and use of these proposed new rights over PDT's land will be significant and seriously detrimental to the operation of its operational port.
- 5.5 As the operator of a port at Hartlepool and the freeholder of the Hartlepool Dock Estate, PDT must have the ability to use its land in a flexible and unhindered way and without any restrictions placed upon it.
- 5.6 Should the CPO be approved, the Affected Land would effectively split the Hartlepool Dock Estate in to two parts due to the fixed nature of the new

access rights. This would understandably have a detrimental effect on how PDT would be able use this area of the Hartlepool Dock Estate.

- 5.7 Currently, the Affected Land is located within the ISPS boundary. Whilst this has been explained above, it is also prudent to state that effectively splitting the Hartlepool Dock Estate into two parts does not allow for flexibility in PDT's operational activities; splitting the site in this way will also significantly impact on potential new customers who would be less likely to take up a lease of an area which is split by an access road.
- 5.8 In order to safely and securely run operations on the Hartlepool Dock Estate, PDT must be able to secure the site at short notice. Should the new rights that are proposed be acquired, PDT would be limited in its ability to fully secure its operational land. Any items stored on part of the Affected Land would need to be relocated, and any diversion of the acquired rights would be subject to requirements for consultation, obtaining planning permission, and a lengthy (6 month) notice period.
- 5.9 PDT has received copies of correspondence from both the Minister for Maritime, International and Security (**Appendix 5**), and the United Kingdom Major Ports Group (**Appendix 6**), raising queries and concerns in relation to the proposed acquisition and the effect that it will have on PDT's operations.
- 5.10 To enable PDT to remain in commercial competition with the other east coast ports, PDT must be able to utilise the operational land howsoever may be required at any given time, so it can offer land for any cargo that Hartlepool Dock is permitted to handle, without further restrictions imposed by any new development.
- 5.11 Although the Order makes provision for PDT to divert the right of way, PDT would be required to give 6 months' notice of this. No explanation has been provided of the reasons why such lengthy notice is required, and it is incompatible both with PDT's ability to close the access (possibly at very short notice) for security reasons, and with its operational need to reconfigure areas of the port. It does not appear that Orsted has had any regard to the port operational nature of the Affected Land. PDT has a reputation for being able to flex and react to customers' needs. For example, it has recently reconfigured the site by opening up routes across the port for the Tall Ships event in 2023; further, one customer who

produces cables, often requires the space to load cables onto a ship which requires moving materials and access routes across the site. Flexibility is therefore key to providing an effective service for customers – without this the port is restricted and less able to provide the services required by customers.

- 5.12 As the Operations Manager at Hartlepool, from an operational point of view the current kittiwake population is very nearly confined to the dolphin bridge head on Irvines Quay and has been for many years. Undoubtedly the ANS works will encourage an increase in the avian population, how this will be restricted to kittiwakes would be of interest as would how other bird species will be discouraged and controlled when they inevitably take possession. In addition, the increased guano will have a negative impact on PDT's storage ability in these areas. Given its corrosive properties, PDT would have to reconsider its offering to customers in terms of storage which will reduce its capacity to provide services.

6. SUMMARY AND CONCLUSIONS

- 6.1 The Affected Land is currently used for heavy plant operations to move goods between adjacent areas of the site. Use of the Affected Land as an unrestricted access, with limited rights for PDT to vary the route of such access, would have a detrimental effect for PDT. PDT requires flexibility of its estate to enable it to meet customer needs and comply with legal requirements relating to the ISPS boundary and Customs Wharf Approval. PDT must be able to secure the site at short notice in order to safely and securely run operations on the Hartlepool Dock Estate.
- 6.2 Further, it is incompatible with the port's commercial operation to limit the use of PDT's land in such a restrictive manner. The proposed rights would provide for unrestricted access to the port's Restricted Area and would require PDT to give Orsted 6 months' notice of any need to vary the route of the access, when in fact PDT would require notice from Orsted to enable safe, secure access across the port land.
- 6.3 In light of the impact that the acquisition of the proposed rights would have on the safe, efficient, and necessarily flexible operation of the port, I do not believe there is a compelling case in the public interest for Orsted to acquire by compulsion rights over the area outlined in the proposed Compulsory Purchase Order.

7. DECLARATION

- 7.1 I believe that the facts stated in this statement of evidence are true and I confirm that the opinions expressed in this statement of evidence are my true and professional opinions.



Sean Beach

9 January 2024

Appendix 1



PROJECT ENGINEERING DEPARTMENT
VULCAN STREET
MIDDLEBROUGH
TD 15X
TEL 01642 877000

HARTLEPOOL

REVISED: 25th MAR 2022

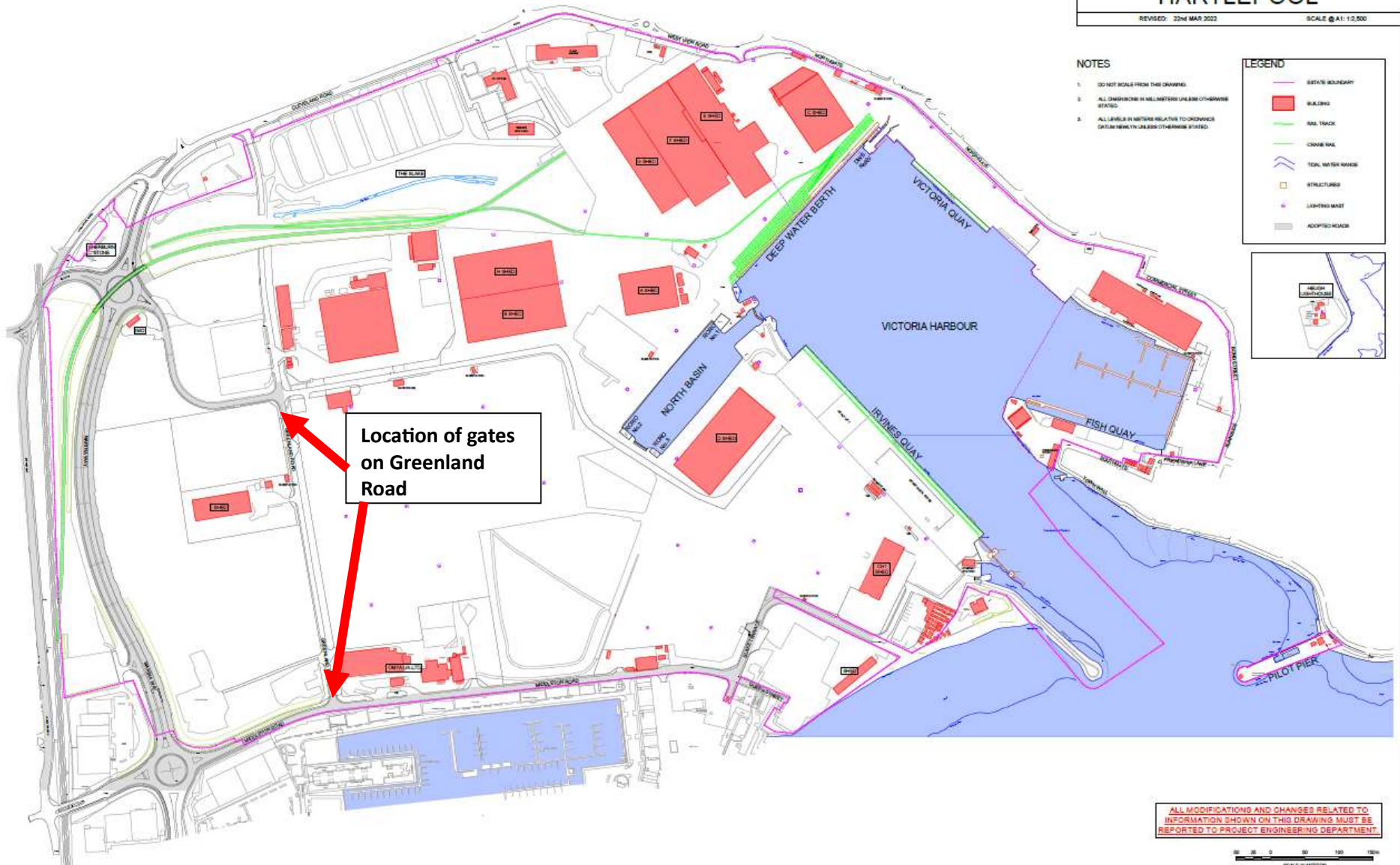
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NOTES

1. DO NOT SCALE FROM THIS DRAWING.
2. ALL DIMENSIONS IN MILLIMETERS UNLESS OTHERWISE STATED.
3. ALL LENGTHS IN METERS RELATIVE TO ORDNANCE DATUM HEIGHT UNLESS OTHERWISE STATED.

LEGEND

	ESTATE BOUNDARY
	BUILDING
	RAIL TRACK
	CRANE RAIL
	TIDAL WATER MARK
	STRUCTURE
	LIGHTING MAST
	ADOPTED ROAD



ALL MODIFICATIONS AND CHANGES RELATED TO INFORMATION SHOWN ON THIS DRAWING MUST BE REPORTED TO PROJECT ENGINEERING DEPARTMENT.



Appendix 2

**Extract From: Department for Transport Port Facility Security Instructions - July 2022 -
A.5. Restricted Areas ISPS Code**

Part A: paragraph 14 ISPS Code

Part B: paragraph 16.21

A.5.1.1. A Restricted Area (RA) can be designated anywhere within a port facility and in some cases may encompass the entire port facility. The scope of individual RAs will vary depending on the specific assets, infrastructure and vulnerabilities of an individual port facility.

A.5.1.2. Permanent RAs must be delineated, secured and signed. Examples of areas which are generally situated within RAs are given in the specific category sections; however, as a minimum it must encompass the entire vessel, mooring lines and gangways.

Appendix 3



HARTLEPOOL

REVISED: 3rd AUG 2023

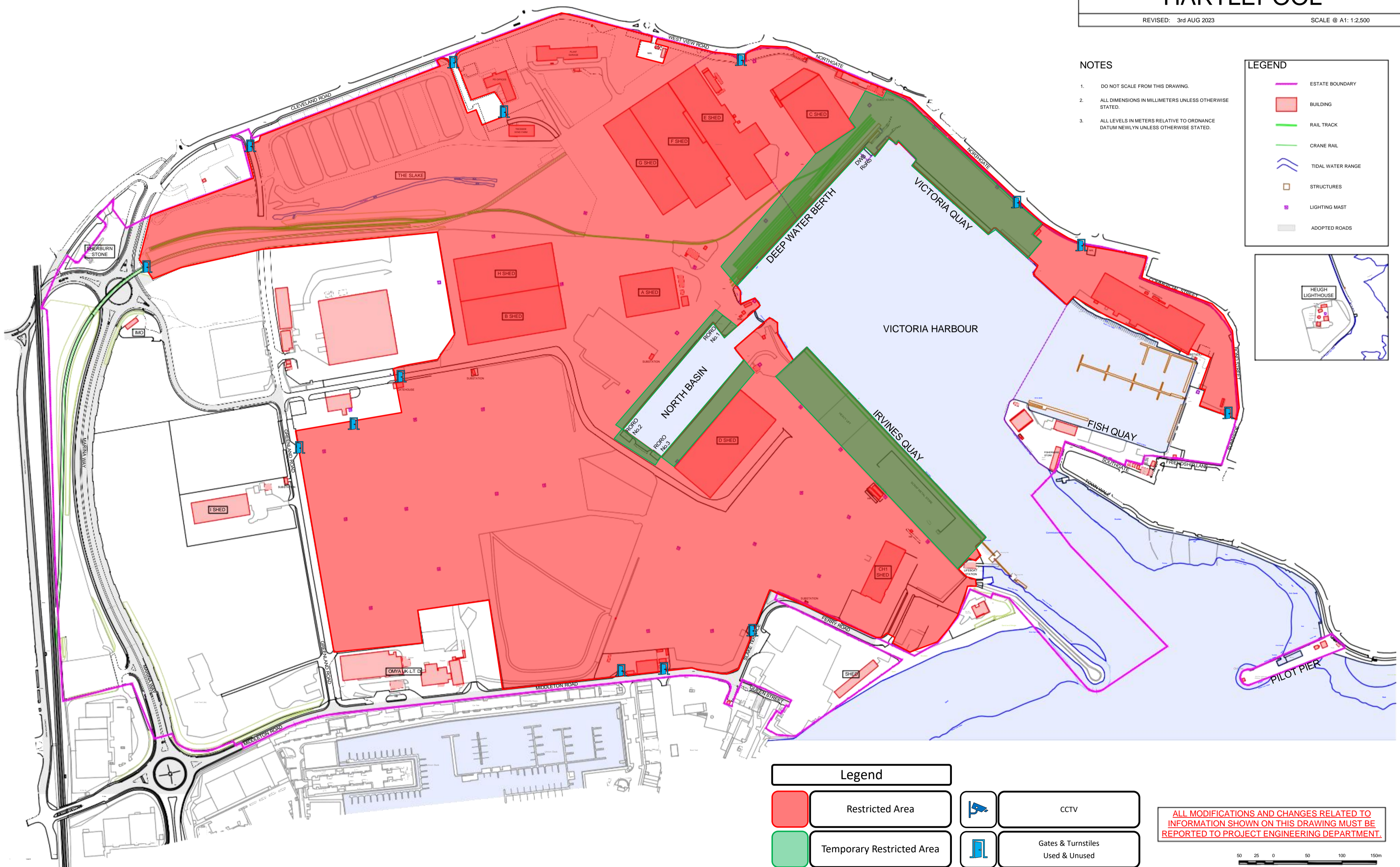
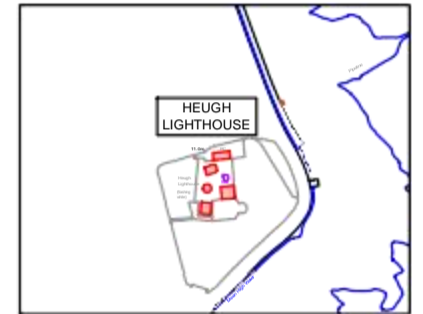
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NOTES

- DO NOT SCALE FROM THIS DRAWING.
- ALL DIMENSIONS IN MILLIMETERS UNLESS OTHERWISE STATED.
- ALL LEVELS IN METERS RELATIVE TO ORDNANCE DATUM NEWLYN UNLESS OTHERWISE STATED.

LEGEND

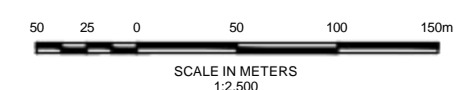
- ESTATE BOUNDARY
- BUILDING
- RAIL TRACK
- CRANE RAIL
- TIDAL WATER RANGE
- STRUCTURES
- LIGHTING MAST
- ADOPTED ROADS



Legend

- Restricted Area
- Temporary Restricted Area
- CCTV
- Gates & Turnstiles Used & Unused

ALL MODIFICATIONS AND CHANGES RELATED TO INFORMATION SHOWN ON THIS DRAWING MUST BE REPORTED TO PROJECT ENGINEERING DEPARTMENT.



Appendix 4

Appendix 5



Department
for Transport

Rt Hon Graham Stuart MP
Minister for Energy Security and Net Zero
Department for Energy Security and Net Zero

Cc: Frans Calje, PD Teesport Limited

Lord Davies of Gower
Minister for Maritime, International and Security

Great Minster House
33 Horseferry Road
London
SW1P 4DR

Tel: 0300 330 3000
E-Mail: Lord.davies@dft.gov.uk

Web site: www.gov.uk/dft

Our Ref: MC/439443

8 January 2024

Dear Graham,

On 21 December 2023 I was made aware by PD Teesport Limited (PDT), the port operator and statutory undertaker for Teesport and Hartlepool docks, of a proposed compulsory acquisition of access and utilities rights by Ørsted at Hartlepool Docks.

Compulsory acquisition of rights over a harbour authority's land ought to be a last resort and the acquisition is permanent. Therefore, before you make any decision on this matter, I would like further information from you or Ørsted to demonstrate that there is not a serious detriment to PDT's statutory undertakings.

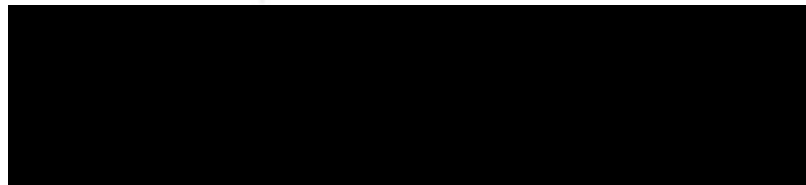
Firstly, can I have full details of alternative routes of access that Ørsted have considered?

I also seek details on whether you or Ørsted have consulted HMRC / UK Border Force on how you propose the control of access to/from the Hartlepool customs site, part of the Teesside Freeport, will be managed in the event you are minded to confirm the compulsory acquisition. The secure operation of the customs site must not be compromised.

Harbour authorities have permitted development rights under Town and Country planning legislation for the express reason be able to respond quickly to new cargo or passenger handling requirements. In stark contrast to this, the acquisition of these access rights would mean PDT cannot divert the route of access without permission and consultation as part of a six month process.

I would welcome a meeting to discuss the above matters prior to the acquisition process concluding, noting there is an inquiry scheduled on 30 January. I look forward to hearing from you at your earliest convenience.

I have copied this letter to PDT.



LORD DAVIES OF GOWER

Appendix 6

PD Ports
17-27 Queen's Square
Middlesbrough
Cleveland
TS2 1AH

By email only

8th January 2024

Dear Michael,

UK Major Ports Group - Letter of Support

We write this letter of support of PD Ports, in relation to the current attempt to compulsory purchase access over port land at Hartlepool. This letter sets out the role and importance of ports in the UK and reflects on the importance of our statutory functions and protections afforded to land belonging to statutory undertakers.

The UK Major Ports Group (“UKMPG”) represents the nine largest UK port operators who, via the 40 ports they run, handle three quarters of all the port volumes entering and leaving the UK and invest more than £500m of private sector capital each year in the UK’s ports and surrounding coastal areas. Appendix A to this document shows the UKMPG members and puts them in the context of the UK ports sector.

Our membership includes PD Ports, the statutory harbour authority for Tees and Hartlepool. As shown in appendix A, Tees and Hartlepool are the fifth largest (by tonnage) port operation in the UK. This facility is a key piece of national infrastructure, handling over 29millions tonnes a year. It also has a significant role in the regional economy in the North-East, and particularly in the regional energy hub and supporting the energy transition.

The UK ports sector is vital to the functioning of the UK economy, facilitating trade of essential goods and services. Ports and harbour authorities have statutory responsibilities and protections in place to ensure they can function, adapt and keep goods moving. Operating ports and meeting customer needs means that ports often have to repurpose or configure their sites, for example to handle large and bulky project cargo, or to accommodate a new cargo or route. The layout of ports is often changing to accommodate these needs, and ports also have extended Permitted Development Rights to allow more extensive development of their land to accommodate the movement of goods.

The protections for port land include protection of land being used by statutory undertakes from compulsory purchase. In the case of compulsory purchase applications involving port land, there has to be a case that the purchase of the land will not cause serious detriment to the undertaking. This protection of land is essential to ensure that port land has security of use and does not become fragmented. The ability to be able to manage a port estate according to the needs of the current and future users is essential for the port to be able to adapt for the future.

Compulsory purchase should be an avenue of very last resort and given in very specific circumstances. It appears that the access route attempted to be acquired is not the only route of



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access and as such we are not convinced the compulsory purchase route is appropriate. Furthermore, given the compulsory purchase of land will both restrict PD Ports ability to reconfigure the site, which may be required to meet the needs of future customers, and sever part of the site from the main operation, we fail to see how it does not cause serious detriment to the port's ability to adapt to their customer needs. The ability of a port to be able to reconfigure their sites is a key characteristic which makes our UK ports responsive the changing needs of the UK economy. The granting of this Accessway with the need for 6-months' notice for any proposed changes would be severely restrictive on the port's ability to adapt.

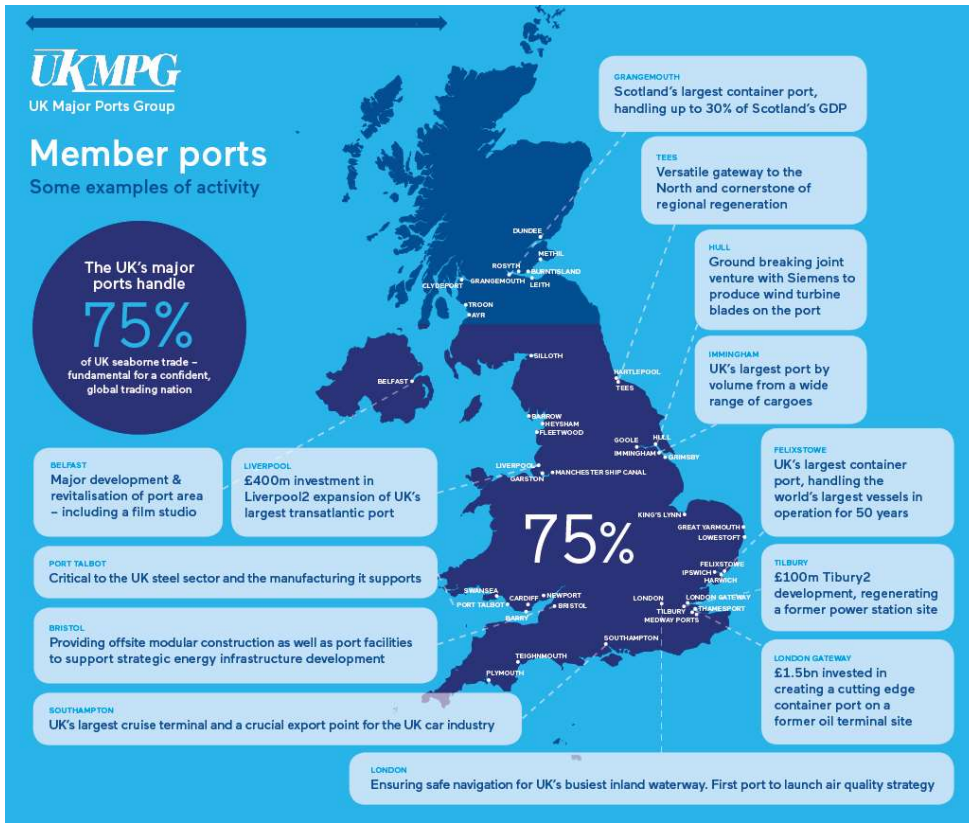
We consider the granting of this compulsory purchase could be detrimental to the operation of PD Ports' operations at Hartlepool and could set an unwelcome precedent for other port operators.

Yours sincerely,



Geraint Evans
Chief Executive, UK Major Ports Group

Appendix A: UK Major Ports Group Members



UKMPG Members

- ABP** | ASSOCIATED BRITISH PORTS
Associated British Ports
www.abports.co.uk
 - Belfast Harbour**
Belfast Harbour
www.belfast-harbour.co.uk
 - THE BRISTOL PORT COMPANY**
Port of Bristol
www.bristolport.co.uk
 - DP WORLD**
DP World UK
www.londongateway.com
www.dpworldsouthampton.com
 - FORTH PORTS**
Forth Ports
www.forthports.co.uk/ports/#
 - HUTCHISON PORTS**
Hutchinson Ports UK
www.hutchinsonports.com/en
 - PORT OF LONDON AUTHORITY**
Port of London Authority
www.pla.co.uk
 - PD PORTS**
PD Ports
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UKMPG members in the context of the wider UK ports sector

