

**Date:** Wednesday 29th January 2020, at 2.00pm

**Venue:** Cavendish House, Teesdale Business Park, Stockton-On-Tees, TS17 6QY

**Membership:**

Mayor Ben Houchen (Tees Valley Mayor)  
David Allison (CEO, STDC)  
John Baker (Chair Teesside Learning Trust)  
Paul Booth OBE (Chair TV LEP)  
Sir Alan Cockshaw (Shawbridge Management)  
Bob Cuffe MBE (Non-Executive Director)  
Steve Gibson OBE (Gibson O'Neill Group)  
Cllr Mary Lanigan (Leader Redcar & Cleveland Council)  
Philip Leech (Urban and Civic)  
Mayor Andy Preston (Mayor of Middlesbrough)  
Graham Robb (Recognition PR)  
David Smith (Energy networks Association)  
Anand Srinivasan (Delphinus Advisory Limited)  
Professor Jane Turner OBE (Teesside University)  
Julie Gilhespie (Chief Executive, TVCA)

## **Agenda**

**1. Welcome & Introductions**

**2. Apologies for Absence**

**3. Declarations of Interest**

**4. Governance Update**

Attached (Decision)

**5. Minutes and actions from previous meeting**

Attached

**6. Chair's Update**

Verbal Update

**7. CEO Update**

Verbal Update

**8. CPO Endorsement**

Attached

**9. Risk Appetite**

This report is not for publication by virtue of paragraph 3 of schedule 12A of the Local Government Act 1972

**10. Transition Programme**

This report is not for publication by virtue of paragraph 3 of schedule 12A of the Local Government Act 1972

**11. Financial Update**

This report is not for publication by virtue of paragraph 3 of schedule 12A of the Local Government Act 1972

**12. Written Resolutions**

This report is not for publication by virtue of paragraph 3 of schedule 12A of the Local Government Act 1972

**13. Offshore Wind Discussion**

This item is not for publication by virtue of paragraph 3 of schedule 12A of the Local Government Act 1972

**14. AOB**

**15. Date and Time of Next Meeting:**

5th March 2020 at 2.00pm

**Members of the Public - Rights to Attend Meeting**

With the exception of any item identified above as containing exempt or confidential information under the Local Government Act 1972 Section 100A(4), members of the public are entitled to attend this meeting and/or have access to the agenda papers.

Persons wishing to obtain any further information on this meeting or for details of access to the meeting for disabled people, please contact: Sharon Jones, Governance & Scrutiny Officer, [Sharon.jones@teesvalley-ca.gov.uk](mailto:Sharon.jones@teesvalley-ca.gov.uk). 01642524580.

## **AGENDA ITEM 4**

### **REPORT TO THE STDC BOARD**

**29<sup>th</sup> JANUARY 2020**

#### **REPORT OF THE MONITORING OFFICER**

## **GOVERNANCE REVIEW**

### **SUMMARY**

Following a review of the governance arrangements of the South Tees Development Corporation (STDC), this paper seeks board agreement for changes to the existing governance procedure aimed at improving transparency and enhancing the effectiveness of the corporate decision-making process.

These changes require modest textual alterations to the Development Corporation Constitution and to the Workstream Terms of Reference.

### **RECOMMENDATIONS**

It is recommended that the STDC Board agree to:

- i. The future advance publication of agendas and papers for meetings of the South Tees Development Corporation Board and its Audit & Risk Committee, with the exception of any papers ruled confidential by the Chair in advance.
- ii. Changes to the names of other groups reporting to the full board in order to clarify that these are not constitutionally-mandated committees and are not possessing of decision-making powers.
- iii. Amendments to the South Tees Development Corporation Constitution and its appendices formalising these changes detailed in Appendix 1 of this report.
- iv. Amendments to the Terms of Reference of existing workstreams formalising these changes.

### **DETAIL**

1. Following the integration of the South Tees Development Corporation governance structure into the wider Tees Valley Combined Authority group governance structure a review of the existing governance procedure has been undertaken with the intention of improving transparency and enhancing the effectiveness of the corporation decision-making process.
2. As a result of this review, it is proposed that as constitutionally-mandated statutory committees, agenda and papers for STDC Board and STDC Audit & Risk Committee are in future published on the STDC website at clear least five clear days prior to any meetings.
3. If such papers are, with the written agreement of the Chair and following consultation with the Monitoring Officer, considered commercially or operationally sensitive these will not be published by virtue of Paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972. The decision to make papers confidential

will be detailed in the agenda.

4. Prior to any exempt items being presented to the Board or Committee it will also be necessary for the Chair to propose a motion that press and public be excluded from the duration of the item under Section 100A (4) of the Local Government Act 172 on the grounds that the item may involve the likely disclosure of exempt information as defined in categories 1 and 2 of paragraph 9 of Part 1 of Schedule 12A of the Act (as amended).
5. Paragraph 38 of the Development Corporation Constitution makes provision for the establishment of “committees or sub-committees of the board”. Paragraph 39 states that these groups may “include persons who are not members of the Corporation”. In order to bring greater clarity to the status of these groups – namely that they have been created to make recommendations for decision by the Board but are not themselves possessing of formal decision-making powers – it is recommended that these groups are henceforth referred to as “workstreams”.
6. These workstreams may make recommendations to the board for consideration, either through the standing Chief Executives Report or via separate agenda item as appropriate. Agenda or papers relating to these workstreams will not otherwise be published.
7. Established workstreams are as follows:
  - People Search and Remuneration Workstream
  - Business & Innovation Workstream
  - Planning & Infrastructure Workstream
8. In order to formalise the changes outlined above, the Constitution of the South Tees Development Corporation will require modest textual alterations, as detailed in appendix 1. It is also necessary to make modest textual alterations to the Terms of Reference of existing workstreams, as detailed in further appendices.
9. In addition to the above, and as detailed in appendix 1, it is also recommended that the Constitution is amended to remove no longer relevant paragraphs relating to the operation of the Shadow Corporation, and that additional clarity is given to officers and members with the constitutional authority to use the corporate seal.

## **FINANCIAL IMPLICATIONS**

10. Support for the governance of the South Tees Development Corporation is provided from within the Authority’s core budget, as agreed by Board through the annual budget process, and funded through resources devolved from central government.

## **LEGAL IMPLICATIONS**

11. The report relates to the Constitution of the South Tees Development Corporation which sets out the appropriate statutory framework.

## **CONSULTATION & COMMUNICATION**

12. Independent legal advice has been sought for proposals detailed in this report, with counsel indicating agreement.

**Name of Contact Officer:** Andrew Nixon

**Post Title:** Monitoring Officer

**Telephone Number:** 01642 444536

**Email Address:** andrew.nixon@redcar-cleveland.gov.uk

## **Appendix 1: Proposed alterations to the South Tees Development Corporation Constitution following Governance Review**

### **Constitution**

1. Paragraph 3 to be amended to:

“This Constitution initially took effect on August 1<sup>st</sup> 2018 – when new statutory arrangements were enacted - and has been amended four times subsequently, most recently on January 29<sup>th</sup> 2020. Prior to this the functions of the Corporation were led by a Shadow Board established by the Combined Authority and Government Ministers in May 2016”.

2. Paragraph 11 to be amended to remove the below line as it is no longer relevant:

“To ensure effective transition upon the creation of the Corporation board members of the Shadow Corporation Board may be invited to put themselves forward for appointment to the new Board”.

3. Paragraph 12 to be amended to include the following line:

“In addition to those detailed in paragraph 4”.

4. Paragraph 17 to be amended to:

“Subject to any direction given to it by the Combined Authority, the Corporation may decide on its own procedure, and the procedure of any of its Board, Audit & Risk Committee or workstreams established by the Board.

5. Paragraph 38 to be amended to:

“In addition to the Audit and Risk Committee the Corporation Board may establish additional workstreams. The work of these workstreams, or any recommendations made by them, will be reported back to the Board as part of the Chief Executive’s standing update or by additional report as appropriate.”

6. Paragraph 39 to be amended to:

“A workstream may, with the agreement of the Board, include persons who are not members of the Corporation”.

7. Paragraph 40 to be amended to:

“The Board must approve the Terms of Reference of any such workstream”.

### **Appendix II: Rules of Procedure**

8. Paragraph 1.2 to be amended to:

“These rules apply to meetings of the Development Corporation Board (Board) and where appropriate to meetings of the Audit & Risk Committee and other workstreams established by the Board.

9. Paragraph 1.3 to be amended to:

“References in these rules to the Chair mean the member for the time being presiding at the meeting of the Board and at a meeting of the Audit & Risk Committee or workstream established by the Board.

10. Amend paragraph 2.1 (i) to:

“appoint members of other workstreams as the Development Corporation considers appropriate”.

11. Amend paragraph 2.1 (j) to:

“appoint the membership of the workstreams referred to in the preceding sub paragraphs”.

12. Amend paragraph 2.1 (k) to:

“appoint the Chair and Vice-Chair of the Audit & Risk Committee and the Chair and Vice-Chair of any other workstream established by the Board, after considering any proposal put to them by the Committee or workstream”.

13. Delete paragraph 2.1 (l).

14. Amend paragraph 3.1 (c) to:

“receive any announcements from the Chair and/or the Chief Executive, including those relating to the work or recommendations of any workstreams established by the Board”.

15. Amend paragraph 3.1 (e) to:

“receive reports from any workstream established by the Board”.

16. Amend paragraph 5.1 to:

“Meeting dates, times and venues will be determined for each financial year, ensuring alignment ahead of the Tees Valley Combined Authority Meetings, at the earliest possible date during that financial year. In the interests of transparency the meeting dates, times and venues of Board meetings and meetings of the Audit & Risk Committee will also be published on the Corporation website”.

17. Insert new paragraph 5.4 to read:

“Agendas and papers for Board meetings and meetings of the Audit & Risk Committee will be published on the Corporation website five clear days prior to the meeting date unless ruled commercially or operationally sensitive under Paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972, with written agreement of the relevant Chair.”

### **Appendix III: Code of Conduct**

18. Amend paragraph 2.1 (b) to:

“The Development Corporation Audit & Risk Committee and any workstream established by the Board”.

19. Amend paragraph 7 to:

“Where you have been involved in the making of any decision or the taking of any action by the Development Corporation Board or Audit & Risk Committee, or recommendation made by any workstream established by the Board, you must not take part in that scrutiny process other than for the purpose of answering questions or giving evidence relating to the business”.

## **Appendix V: Scheme of Delegations**

20. Amend paragraph 1.2 a) to:

“Determination of those reports which should be available for public inspection prior to a meeting of the Development Corporation Board, the Audit & Risk Committee and any workstream established by the Board which are likely to be held in private and consequently which should not be released to the public”

- Provision of documents to the press, additional to Board or Audit & Risk Committee reports.

21. Amend paragraph 1.5 to:

“All officers in whose name reports are submitted to the Development Corporation Board, the Audit & Risk Committee and any workstream established by the Board via the Monitoring Officer”.

22. Amend paragraph 2.6 (d) to:

“any policy or direction of the Development Corporation Board, the Audit & Risk Committee and any workstream established by the Board acting in exercise of the powers delegated to it by the Development Corporation”.

23. Amend paragraph 2.8 to:

“Where in relation to an item before the Development Corporation Board, Audit & Risk Committee and any workstream established by the Board, a Chief Officer is given specific authority to determine a particular matter, the officer should ensure that there is an appropriate audit trail to evidence such a determination”.

24. Amend clause CE03 to:

“To discharge any function of the Development Corporation which has not been specifically delegated to another officer or reserved to the Development Corporation Board or Audit & Risk Committee whether by law or by this Constitution”.

25. Insert CE08 reading:

“Authentication of documents and the use of the corporate seal”.

26. Amend clause MO4 to:

“To accept on behalf of the Development Corporation Board in-year changes to the membership of the Audit & Risk Committee and other workstreams established by the Board”.

**SOUTH TEES DEVELOPMENT CORPORATION (STDC) BOARD**

Date: 27<sup>th</sup> November 2019

Time: 14.00 pm

Venue: Cavendish House, Stockton-On-Tees

Attendees:		Apologies:
Ben Houchen (Chair)	Tees Valley Mayor	Professor Jane Turner
John Baker	Teesside Learning Trust	Anand Srinivasan
Paul Booth	TV LEP	Andy Preston
Bob Cuffe	Non-Executive Director	Steve Gibson
Mary Lanigan	Leader, RCBC	Sir Alan Cockshaw
Graham Robb	Recognition PR	
David Smith	Energy Networks	
Phillip Leech	Urban & Civic	
Sarah Robson	RCBC	
Tom Smyth	BEIS, Interim Government Representative	
David Allison	STDC	
John McNicholas	STDC	
Richard Lakey	STDC	
Julie Gilhespie	TVCA	
Gary MacDonald	TVCA	
Andrew Nixon	TVCA	
Sharon Jones (Secretariat)	TVCA	

No.	Agenda Item	Summary of Discussion	Actions Required	Responsibility
1.	<b>Welcome and introductions</b>	The Chair welcomed everyone to the meeting.		
2.	<b>Declarations of Interest</b>	GR declared that his Company have clients in the Offshore Wind Industry locally.		
3.	<b>Quorum</b>	<p>The meeting was quorate. ML advised she needed to leave the meeting early which would then deem the meeting inquorate. It was agreed all items requiring a decision would be addressed before she leaves.</p> <p>ML left the meeting at 15:35pm</p>		
4.	<b>Minutes &amp; Actions</b>	<p>The minutes of the previous meeting were agreed as a true record.</p> <p>The Action Register was discussed. All actions are completed or on the agenda to be addressed within today's meeting.</p>		
5.	<b>Chair's Update</b>	There was no update from The Chair on this occasion		
6.	<b>CEO Report</b>	STDC staff have now moved and are based in Cavendish House. The Governance aspect of STDC work is now being carried out by staff within TVCA. The aim is to complete all staff performance meetings by Xmas.		

		<p>Risk registers have been progressed. There was a concern regarding the asset ownership of STDC. There are now 3 directors in place for STDL (South Tees Development Limited). We have progressed with the appointment of an Estates Manager. The preferred candidate has accepted an offer and is due to start next week.</p> <p>There is still a lot of work to be done regarding Land &amp; Asset acquisition and the CPO. Proof of evidence needs to be submitted by 13<sup>th</sup> January and the enquiry date is set for 11<sup>th</sup> – 28<sup>th</sup> February. Submissions are currently being reviewed.</p> <p>The Board questioned whether STDC is adequately resourced and if projects and deadlines have been prioritised accordingly. DA explained that a Commercial Director and the Estates Manager have been appointed and both roles can start next week, which will help with resourcing issues. The Finance &amp; Resources Director role is out for advert internally and should be filled soon. The Chair reiterated that the Board should not need to be involved in recruitment for roles with a salary of less than £75k, this can be done via internal processes.</p> <p>The Board agreed that the 2 priority items for STDC over the next 6 months are CPO and the Offshore Wind opportunities. The importance of these override anything else.</p>		
7.	<b>Key Strategy Projects</b>	<p>BH gave an update on the current status of the key strategy projects.</p> <p>BH asked if help could be acquired from RCBC regarding planning/MMO. We are already in the process of setting up a Project Team to look at this. RCBC agreed that they would assist as much as possible and would provide someone from their planning team to join the Project Team.</p>		
8.	<b>Finance &amp; Governance</b>	<p>RL circulated the Annual Audit letter – This was approved by the Board.</p>		

		A paper was circulated regarding an update on the Governance of the STDL - The Board noted the paper.		
9.	<b>Committee and Group reports</b>	<p><b>Audit &amp; Risk</b> —A paper was circulated providing an update from A&amp;R Committee. JB advised that lengthy discussions had taken place in the last meeting. Action points had been agreed and these are already being worked on.</p> <p><b>Business &amp; Innovation</b> – A paper was circulated providing an update from B&amp;I Committee. PB informed the Board that Neill Burgess gave an update on the work being done around Customer Engagement and that this will be signed off following a small amount of changes made after feedback from the Committee in the last meeting.</p> <p><b>Planning &amp; Infrastructure</b> – – A paper was circulated providing an update from P&amp;I Committee. PL – raised a concern regarding expenditure and work on the Prairie site and the possible reprofiling of the £14m funding. DA explained that there is a legitimate reason for the delay. He is expecting an interim report to panel on Monday, a risk assessment to be carried out next week and then hopefully we can make a start with ground investigation again. BH – asked clarity around a restart date and the new timelines for work. It was requested that a clear position of what’s happening be provided for the next Board meeting.</p> <p><b>Energy &amp; Utilities</b> - DS gave an update from the meeting of E&amp;U Task &amp; Finish Group which took place earlier today.</p>	<b>Update on the progress and timelines for Prairie Site to be provided for next Board meeting</b>	<b>DA</b>
9.	<b>AOB</b>	None		
10.	<b>Date of next meeting</b>	<p><b>29<sup>th</sup> January 2020</b>  <b>25<sup>th</sup> March – meeting needs bringing forward due to Purdah – ASAP.</b></p>	<b>Amend date of March meeting</b>	<b>SJ</b>

## **AGENDA ITEM 8**

### **REPORT TO THE STDC BOARD**

**29 JANUARY 2020**

#### **REPORT OF THE MONITORING OFFICER**

### **COMPULSORY PURCHASE ORDER (CPO) UPDATE – REAFFIRMATION OF DECISION**

#### **SUMMARY**

1. In February 2018, the STDC Board confirmed, by way of written resolution, to in-principle authorise the making of a CPO to secure the regeneration of land within the STDC area.
2. Subsequent to this, in July 2018, the STDC Board authorised the making of one or more CPOs to acquire land and new rights to facilitate the regeneration of land within the STDC area, and the submission of the CPOs to TVCA for consent to submit the CPOs to the Secretary of State for confirmation.
3. Further updates as to the progress made with the proposed CPO(s) were provided to the STDC Board in September 2018, November 2018 and January 2019.
4. The TVCA Cabinet consented to the submission of the CPO to the Secretary of State for confirmation and “The South Tees Development Corporation (Land at the Former Redcar Steel Works, Redcar) Compulsory Purchase Order 2019” was made on 11 April 2019, the affixing of the seal being authenticated by Mayor Ben Houchen.
5. Objections were received to the making of the CPO. The objections made by SSI Thailand, Royal Bank of Scotland and [the Thai Banks] assert that the CPO was made without authorisation by the STDC Board and that the CPO was signed by Ben Houchen who had no authority to do so. The objectors listed here all contained the same objection information. The SSI objection is attached at Appendix 1.
6. The purpose of this report is to inform Members of the correspondence received and STDC's response and to ask the STDC Board to reaffirm its commitment and decision to make the CPO and, in particular, to confirm that the July 2018 resolution authorised the making of one or more CPO(s) without the need for a further resolution before the making of the CPO(s).

#### **RECOMMENDATIONS**

It is recommended that the STDC Board:

- i. confirm that the July 2018 resolution authorised the making of one or more CPOs without the need for a further resolution before the making of the CPOs; and

- ii. reaffirm its commitment and decision to make the CPO.

## DETAIL

1. In February 2018, the STDC Board confirmed, by way of written resolution, that the Board:
  - *authorises the in-principle use of a CPO to acquire the necessary land interests in the Site and, as necessary, the creation of new rights, pursuant to sections 201 and 207 of the Localism Act 2011 and the Acquisition of Land Act 1981 to secure the regeneration of the Area by facilitating the regeneration or development of the Site;*
  - *agrees to authorise the Chief Executive to take all necessary steps to continue the process for the making, confirmation and implementation of the CPO, including preparing all necessary CPO documentation; and*
  - *notes that a further report will be put before the Board to approve the final extent of the land to be acquired following the finalisation of the necessary preparatory work.*
2. Subsequent to this, a draft CPO map was tabled at the July 2018 meeting of the STDC Board. After discussion regarding the extent of the land to be included in the CPO, the Board resolved as follows:
  - *authorises the making of one or more CPOs to acquire the necessary land interests in the Site and, as necessary, the creation of new rights, pursuant to sections 201 and 207 of the Localism Act 2011 and the Acquisition of Land Act 1981 ("1981 Act") to secure the regeneration of the Area by facilitating the regeneration or development of the Site;*
  - *agrees to authorise the Chief Executive to take all necessary steps to make one or more CPOs and thereafter to continue the process for the confirmation and implementation of the CPO(s); and*
  - *agrees to the submission of the CPO(s) to TVCA for consent to submit the CPO(s), once made, to the Secretary of State for confirmation pursuant to section 207(3) of the 2011 Act.*
3. Further updates as to the progress made with the proposed CPO(s) were provided to the STDC Board in September 2018, November 2018 and January 2019. At each of those meetings, revisions to the extent of the land to be acquired pursuant to the proposed CPO(s) were discussed with the Board.
4. The TVCA Cabinet consented to the submission of the CPO to the Secretary of State for confirmation and "The South Tees Development Corporation (Land at the Former Redcar Steel Works, Redcar) Compulsory Purchase Order 2019" was made on 11 April 2019, the affixing of the seal being authenticated by Mayor Ben Houchen.
5. The objections made to the CPO by SSI Thailand, Royal Bank of Scotland, Siam Commercial Bank, TISCO and Krung Thai argue that:
  - The CPO was made without any vote by the STDC Board authorising the CPO and contained material changes from the draft which was considered by the STDC Board in July 2018, without authority for those changes; and

- The CPO was signed and purported to be authorised by Ben Houchen who had no authority to do so.
6. A copy of the objection and related correspondence is appended to this report.
  7. A copy of the response made by the solicitors for STDC is also appended to this report.

### **FINANCIAL IMPLICATIONS**

8. The financial implications of the CPO process have been incorporated within existing funding approvals and budgets. No changes to this arise in consequence of this report.
9. TVCA have previously approved £56.5m, and Central Government have approved £71m, towards the delivery of CPO and all associated STDC area regeneration activity.

### **LEGAL IMPLICATIONS**

10. STDC made The South Tees Development Corporation (Land at the Former Redcar Steel Works, Redcar) Compulsory Purchase Order 2019 on 10<sup>th</sup> April 2019 pursuant to sections 206 and 207 of the Localism Act 2011 and the Acquisition of Land Act 1981.
11. The STDC Board received the necessary information at its Board meeting of 25 July 2018 and approved the making of CPO in accordance with legislation.
12. Confirmation of the CPO and the objections to it are to be considered by an independent inspector at a public inquiry scheduled to begin on Tuesday 11 February 2020. Evidence on behalf of STDC and objectors was exchanged on 21 January 2020 and is available for Board Members to read.

### **RISK ASSESSMENT**

13. The Board considered all relevant risks to the making of CPO(s) at its meeting on 25 July 2018.

### **CONSULTATION & COMMUNICATION**

14. The STDC Board will continue to comply with all necessary consultation processes required as part of the CPO process. STDC's case for the CPO and the scheme under it will be made at the forthcoming inquiry

### **EQUALITY & DIVERSITY**

15. There are no Equality and Diversity implications associated with this report.

**Name of Contact Officer:** Andrew Nixon  
**Post Title:** Monitoring Officer  
**Telephone Number:** 01642 444536  
**Email Address:** andrew.nixon@redcar-cleveland.gov.uk

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

**NOTICE OF OBJECTION**

**ON BEHALF OF**

**SAHAVIRIYA STEEL INDUSTRIES PCL**

**I. INTRODUCTION**

- I.1 This is an objection against the confirmation of the South Tees Development Corporation (Land at former Redcar Steelworks, Redcar) Compulsory Purchase Order 2019.
- I.2 Sahaviriya Steel Industries PCL is the (former) parent company to and guarantor of Sahaviriya Steel Industries UK Limited (In Liquidation) and therefore has ultimate financial responsibility to three Thai banks who are mortgagees in respect of the following land identified in the map as Plots 1, 2, 3, 20, 37, 44, 45, 51, 66, 67, 69, 70, 71, 80, 81, 107, 145, 146, 148, 150, 154, 157, 158, 159 and 166.
- I.3 Whilst the liquidation of Sahaviriya Steel Industries UK Limited (In Liquidation) and transfer of its assets to the Official Receiver means that Sahaviriya Steel Industries PCL no longer has any direct or indirect ownership interest in the Order Land, Sahaviriya Steel Industries PCL requests that the Secretary of State treat it as a qualifying person under S.12 (2A) (a) of the Acquisition of Land Act 1985) in view of its unique position. In addition, following the liquidation of Sahaviriya Steel Industries UK Limited (In Liquidation), Sahaviriya Steel Industries PCL is now the person with the best available understanding of much of the Order Land and is therefore well positioned to assist the Secretary of State (through an appointed Inspector) in his consideration of the merits of the Order.
- I.4 Sahaviriya Steel Industries PCL has had the benefit of seeing The Royal Bank of Scotland Plc's objection to the confirmation of the Order, and adopts those objections as its own:
- I.4.1 because the Order cannot lawfully be confirmed due to procedural flaws in the process leading to the making of the Order as detailed below; and in any event
  - I.4.2 because the Order should not be confirmed due to fundamental flaws in its basic rationale and in the supporting case as detailed below; and
  - I.4.3 in the alternative because the Order is premature, at the very least insofar as it relates to the Plots 1, 2 and 3 and plot 157, and should not therefore be confirmed unless it is first modified to exclude those interests together with necessary savings to preserve access to that land.

- 1.5 These grounds of objection are addressed in greater detail below.
- 1.6 Sahaviriya Steel Industries PCL therefore requests that a Public Inquiry into these grounds of objection be held before a suitably qualified Inspector prior to any decision being taken in respect of the Order.

## 2. **PROCEDURAL FLAWS**

### ***Incorrect use of Statutory Power and lack of transparency***

- 2.1 The South Tees Development Corporation ("STDC" and "acquiring authority") benefits from bespoke compulsory purchase powers as detailed in paragraph 2.4 of the Statement of Reasons. The use of those powers is subject to procedural safeguards, including that the approval of the Tees Valley Combined Authority ("TVCA") must be obtained before an Order is submitted to the Secretary of State for confirmation.
- 2.2 It has not been demonstrated that such approval is in place. In particular:
- 2.2.1 a gross lack of transparency exists due to STDC's near total failure to publish its relevant meeting agendas, reports and minutes, and to claims of confidentiality by TVCA in respect of key documentation, the result of which is
- (a) that it is impossible to determine whether the Order as made is that which STDC has purportedly resolved to make and which TVCA is said to have authorised, and
  - (b) the (limited) background documentation that has been released shows at least a mis-match between the parties authorised to make the Order and that made, and perhaps in other areas.
- 2.2.2 As at the date of this objection STDC has made available exactly three documents setting out its approach to the use of compulsory purchase powers. They are:
- (a) the Statement of Reasons itself;
  - (b) a report to the STDC board dated 25 July 2018 which concluded that the proposed extent of the CPO land which included land comprising the Redcar Bulk Terminal which was '*vital to delivering its vision for the area*' and a recommendation for the board '*to authorise the Chief Executive to take all necessary steps to make the CPO and thereafter to continue the process for the confirmation and implantation of the CPO*'; and
  - (c) an undated STDC Board report containing almost entirely redacted minutes of the STDC Board meeting held on 25 July and a recommendation seeking changes to an earlier, undisclosed, resolution to enable more than one CPO to be made in order to accommodate the removal of critical land at Redcar Bulk Terminal and other land from the Order.
- 2.2.3 These papers make it clear that as at July 2018 STDC had not decided whether to make one compulsory purchase order or more than one, or which land or interests in land it would seek to acquire. It is also clear that at that time STDC considered the inclusion of the Redcar Bulk Terminal to be an integral and essential component of any CPO.

- 2.3 STDC then draw attention to the decision of TVCA's Cabinet on 25 March 2019, by which it is said authority to make the Order is conferred. However, TVCA have elected to claim confidentiality over the form of draft compulsory purchase order and map that they were asked to approve. It must be demonstrated that the Order is precisely the same as that which TVCA approved in order for the Secretary of State to be lawfully able to confirm the Order.
- 2.4 At least one factor suggests that may not be the case. TVCA expressly authorised the Chief Executive Officer of STDC to make a compulsory purchase order. It does not appear that such an officer currently exists. The Order appears to have been signed by TVCA's Mayor Ben Houchen, acting in the purported capacity of an "authorised officer".
- 2.5 STDC maintains a complete lack of transparency as to its internal governance, with no published list of meeting agendas or minutes other than those expressly disclosed in connection with the Order as referenced above. It is therefore impossible for the public to verify that Mayor Houchen (an outspoken critic of the Thai banks that to whom Sahaviriya Steel Industries PCL is responsible for the outstanding mortgages) is both:
- 2.5.1 vested with the proper authority to execute the Order; and
  - 2.5.2 properly able to carry out the functions of the (currently vacant) post of Chief Executive Officer, being the only STDC officer authorised by the STDC Board and by TVCA to proceed with a compulsory purchase order.
- 2.6 Before confirming any Order (modified or otherwise) the Secretary of State is asked to verify that STDC has adopted correct and appropriate resolutions to appoint Mayor Houchen to those roles and delegate appropriate authority to him. The use of extreme measures such as compulsory purchase power should not be permitted where such a gross lack of transparency and accountability exists. The right to supplement these Objections as appropriate is reserved, should further grounds of objection arise once full and proper disclosure is finally provided.
3. **LACK OF COMPELLING CASE IN THE PUBLIC INTEREST**
- 3.1 The Statement of Reasons comprehensively fails to meet the requirements for justification of the use of compulsory purchase powers, as set out in the February 2018 Guidance on Compulsory purchase process and The Crichel Down Rules (the "**Guidance**"). The main failings are summarised below by reference to the Guidance.
- 3.2 ***Compelling case in the public interest***
- 3.3 There is no doubt that returning productive, employment-generating uses to the currently under-used industrial land comprised in the Order is a laudable aspiration. However, it has not been demonstrated that a compulsory purchase of that land will in any way contribute to that goal. Put another way, the acquiring authority has made a compelling case for its desired outcome, but has made no case whatsoever to demonstrate any meaningful link between that outcome and the acquisition of the land (and certainly not the whole of the land) to which the Order relates.
- 3.4 In fact, the Statement of Reasons itself provides numerous indications that compulsory purchase is unnecessary to the achievement of those outcomes:
- 3.4.1 numerous parcels are cited as being excluded from the Order due to active or planned development proposals;

- 3.4.2 existing future proposals such as the creation of a 'free port' zone create significant commercial opportunities that are likely to generate yet further commercial interest in redevelopment and/or re-use of the Order land; and
- 3.4.3 half of the land (the Tata interests) has already been acquired by private treaty without the need for compulsory purchase. This land should be a sufficient spring-board for the acquiring authority to commence regeneration and establish a track record (if it can), without a prior need also to acquire all SSI land too at this time.
- 3.5 In the context of a desire to bring forward regeneration over a period of 25 years, 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. There is simply no basis for the use of compulsory purchase in this case.
- 3.6 Importantly, the Statement of Reasons is incorrect in its claim that confirmation of the Order will somehow bring to an end the public expenditure that has been incurred in maintenance of the Order Land since steel production came to an end. A change in ownership will do nothing to diminish the holding costs of the land (to the extent these are actually justified, and necessarily incurred), costs which we are told central government has already committed to pay up to 2022. A more favourable way to reduce public expenditure would be to remove the threat of compulsory purchase which has stymied potential development proposals, and allow the market forces which have already proven effective in respect of numerous parts of the Order Land to have effect.

#### **Timing of Order**

- 3.7 The Order is premature, as the Order Land (and certainly all of it) is not required immediately or in any realistically predictable timeframe. The acquiring authority does not know when or how it will use the land. Paragraph 13 of the Guidance advises:

*“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.”*

- 3.8 The acquiring authority has not:
- 3.8.1 provided any information regarding any potential end users of any part of the CPO Land;
- 3.8.2 obtained any planning permissions for any part of the CPO Land;
- 3.8.3 provided any reliable information regarding the likely timescale for delivery of development the Order seeks to enable. Imprecise and yet still wildly inconsistent estimates of either 12 or 25 years overall programme arise in the acquiring authority's internal reports and Statement of Reasons respectively, reflecting a similar disparity in the underlying planning policy expectations; or

- 3.8.4 provided any clear indication of the amounts of funding available or evidence of when (or, as below, whether) the sources of funding outlined in the Statement of Reasons might be secured.
- 3.9 There is clearly a significant amount of work to be undertaken in order to demonstrate a present need for the Order and unless and until such work has been satisfactorily completed, the making and confirmation of the Order is premature.

**Adequate Resources**

- 3.10 Paragraphs 13 and 14 of the Guidance make it clear that a compulsory purchase order should not be confirmed unless it has been demonstrated that the acquiring authority has, or is likely to have, adequate resources to meet the costs of *both*:
- 3.10.1 acquiring the land, and
- 3.10.2 implementing the scheme.
- 3.11 The Statement of Reasons entirely fails to make a persuasive case that sufficient funding is or is likely to be available. Vague reference is made to several possible sources of funding, but when considering the indicators set out in paragraph 14 of the Guidance it is important to note that:
- 3.11.1 no agreements are in place for public or private funding (save as addressed below);
- 3.11.2 the timing of funding is unclear but funds are plainly not currently available and are unlikely to be available early in the process;
- 3.11.3 there has been no attempt to demonstrate that funding will be available within the statutory period under section 4 of the Compulsory Purchase Act 1965;
- 3.11.4 there has been no attempt to demonstrate the existence of exceptional circumstances to justify present-day acquisition against a 25-year delivery programme; and
- 3.11.5 no adequate evidence is provided of any immediately available funding to address potential blight notices, and as detailed below the assertion of £60 million of land acquisition funding from TCVA is both undocumented and based on hopelessly unrealistic valuation material.
- 3.12 The Statement of Reasons attempts to create an illusion of adequate funding by referring to numerous alternative revenue and funding streams. The reality, however, is that these are in the main no more than highly speculative possibilities which fall a very long way short of the level of certainty required before authorising compulsory purchase. Repeated reference is also made to historic central Government funding that has largely already been spent and/or committed, and which therefore does nothing to reassure the Secretary of State that the Order is adequately resourced.
- 3.13 In addition, the acquiring authority asserts in the Statement of Reasons (paragraph 5.13) that a sum of only £60 million is available and will be sufficient to meet the land acquisition costs of the Order. This is incorrect and misleading, as the Tees Valley Investment Plan 2019 – 2029 allocated a sum of £56.5 million to *both* land assembly and infrastructure provision.

- 3.14 In this context, this sum is hopelessly unrealistic, being insufficient to meet the compensation payable in respect of the mortgaged land for which Sahaviriya Steel Industries PCL stands as guarantor, and any associated infrastructure costs (for which no estimates have been provided by the acquiring authority).

***Impediments / Reasonable Prospect of the Scheme going ahead within a reasonable time***

- 3.15 In addition to the repeated reliance on funding from central Government without any assurances, there are conflicting assumptions in the Statement of Reasons and background documents relating to the extent and programming of remediation work required to unlock the Order Land. No cost estimation nor solution has been proposed for delivery of unfunded infrastructure and remediation
- 3.16 The South Tees Area SPD adopted in May 2018 and STDC's South Tees Regeneration Master Plan adopted in March 2019 both emphasise Redcar Bulk Terminal as being a vital strategic asset, the future management of which is pivotal to the success of the redevelopment of the South Tees Area, especially the major Northern Industrial Zone. Planning policy also states that 'Integrating these two major land areas [RBT and SSI Land] is essential to realising the full potential of this zone and the deep-water port facility it provides, the importance of which is recognised in Development Principle STDC4. Segregation would compromise the flexibility, range of uses and development layouts possible in this area.'
- 3.17 The acquiring authority's exclusion of land comprising Red Bulk Terminal from the Order represents a clear obstacle, creating significant uncertainty as to the realisation of many of the Scheme's benefits with consequential impacts on scheme viability and the ability to implement any planning permissions that may be obtained.

***No Likelihood of Key Planning Permissions and Related Orders***

- 3.18 In approving the use of compulsory purchase powers the acquiring authority's own Board Resolution of 25 July 2018 relied on a report which considered the land comprising the Redcar Bulk Terminal to be a "vital gateway to the SSI and Tata land as has been evidenced by the extent of investor interest in it as an integral part of the Site". At that time the draft order anticipated inclusion of that land, as demonstrated by the plan annexed to the report quoted. It is entirely correct that the "deepest port in England, with a river frontage at the mouth of the Tees and approximately 300 acres of land" in question is an "integral" element of the South Tees Area Supplementary Planning Document and the acquiring authority's own Master Plan.
- 3.19 The critical importance of the Redcar Bulk Terminal's deep water port and associated land is further emphasised in The Tees Valley Combined Authority's Finance Director reported on 1 June 2018 on the 'South Tees Site Company Transition Plan'. That report stated (at its paragraph 2):

*2. There are 3 key land assets which are shown on the map in Appendix 2 and these are as follows:*

*a. The former SSI land which is currently owned by the Official Receiver and charged to the Thai Banks but operated by South Tees Site Company, a limited company owned by BEIS and chaired by Cllr Sue Jeffrey;*

*b. The Tata land; and*

*c. Redcar Bulk Terminal which is a limited company owned 50% by Greybull Capital and 50% by the Official Receiver.*

- 3.20 The river access afforded by land at the Redcar Bulk Terminal is unique in the Tees. No other port facility in the area can handle full 'capesize' vessels (the largest dry cargo ships), and it is unlikely that any other capesize dock can realistically be developed in the future due to depth restrictions at other locations on the river. The Redcar Bulk Terminal therefore provides access to a class of shipping that is otherwise impossible to operate anywhere on the Tees, and has for good reason been considered an integral and critical component of the planning policy aspirations for regeneration of the area.
- 3.21 Without the deep water port forming part of the Scheme, there is no prospect of the "North Zone" or "Northern Industrial Zone" of the Master Plan being delivered in anything resembling the form on which the Order is predicated. It follows that there are no clear proposals for the majority of the Order Land to which the mortgages for which Sahaviriya Steel Industries PCL stands as guarantor, now that the Redcar Bulk Terminal and its associated land does not form part of the Scheme. As a consequence the proposals in the Masterplan for a new spine road and Northern Industrial Zone plainly cannot be delivered in their current form. Paragraph 15 of the guidance indicates that "obvious reasons why planning permissions would not be granted" must be discounted. 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.
- 3.22 Similarly, the Master Plan's Southern Industrial Zone is predicated on improvements to the shipping infrastructure along the river frontage comprised essentially in plot 142. Notably, none of the existing shipping infrastructure is included within the scope of the Order, and no indication is given as to the likelihood of rights being available to access the port so as to deliver that shipping access.
- 3.23 The Southern Industrial Zone is further predicated on the creation of an area of new harbour. At page 108 the Master Plan says:
- "The proposals include the creation of an inset quay (or basin) at the downstream end to provide additional capacity and create the potential for accommodating as wide a range of uses as possible. The river in this locale affords a navigable channel maintained to depths ranging from 7.0m to 10.5m, and reconstruction of existing wharfage could be redesigned to delivery greater draught at the quay interface, via pocket dredging."*
- 3.24 It is therefore surprising that the Statement of Reasons indicates at paragraph 6.4 that no additional orders are required. 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.
- 3.25 Taken together, the obstacles facing both the Northern Industrial Zone and the Southern Industrial Zone render around two thirds of the Scheme undeliverable, wholly undermining the rationale for the Order.
- 3.26 It is also unclear to what extent STDC has been able to exclude risks from landfill gas migration and/or whether any necessary mitigation is achievable and affordable. The Statement of Reasons is totally silent on this issue, notwithstanding its prominence in the SPD as an identified issue.

- 3.27 More broadly, any substantial new proposals will require both EIA and HRA-compliant “appropriate assessment” (in particular, to consider impacts on the Special Protection Area /Ramsar site, and the potential Special Protection Area). It is quite impossible to pre-judge the outcome of these important processes (indeed, it would be unlawful to attempt to do so), not least where the acquiring authority is unable to identify with any precision end-users or specific proposals. It cannot possibly be said there are “no obvious reasons why [planning consent] might be withheld” (Guidance, page 13).

***Alternatives to the use of CPO powers***

- 3.28 The Statement of Reasons relies heavily on the so-called 'fragmentation' of the Master Plan site (see paragraphs 1.6, 5.33 and 5.35). It is important to note that "fragmentation" in this sense is of relevance only insofar as it gives rise to a large number of land owning parties, so as to require complex multi-party negotiations to which compulsory powers are the only solution. In this case, it is true that a large number of parcels of land, of irregular shapes and widely varied sizes are caught within the bounds of the Order. However, beneath that superficial complexity lies a more important simplicity: acquisition of the whole of the Order Land requires agreements to be reached with only five private parties. Of those, the Official Receiver Mr Kenneth Beasley holds the vast majority of the land in question (subject to the mortgages for which Sahaviriya Steel Industries PCL stands as guarantor).
- 3.29 The reality is that the Master Plan site is now in largely cohesive ownership, in respect of which a further single transaction is all that the acquiring authority needs to assemble virtually the whole of the development opportunity to which the Statement of Reasons makes reference. Further, the acquiring authority has not demonstrated any attempt to negotiate for the purchase of parts of that land, which together with specific parts of the Tata land in particular, may represent a coherent first phase of regeneration led by STDC.
- 3.30 Equally, that cohesive ownership provides a clear opportunity (given the enormous 25 year scope of the Master Plan) for the private sector to bring about regeneration along the lines set out in the Master Plan without the need for compulsory purchase powers to be used.

**4. PREMATURITY – REQUIREMENT FOR MODIFICATION**

- 4.1 The Northern Industrial Zone of the Master Plan is in just two ownerships. One of those, the Redcar Bulk Terminal and its associated land has been excluded from the scope of the Order. Without it, the other half of the Northern Industrial Zone is plainly undeliverable in the manner STDC envisages.
- 4.2 The acquiring authority acknowledges in its Statement of Reason that private enterprise is likely to secure delivery of regeneration of the deep water port and associated land. Plots 1, 2 and 3 have not been marketed by the Official Receiver most likely due to the looming threat of compulsory purchase. Absent that threat, the logic applied to the neighbouring deep water port and associated land applies equally to these plots. It is wholly artificial to regard liquidation as distinguishing one part of the Northern Industrial Quarter from the other when it comprises the fourth phase of a 25-year delivery aspiration.
- 4.3 Given the limited scope of other land interests to which the Order relates (see above), it is considered that this fundamental omission undermines the entire case supporting the Order. However, should the Secretary of State disagree, it is considered that the Order must be modified so as to exclude at least Plots 1, 2 and 3 and 157 prior to confirmation. Consequential modifications would also be required to ensure access is retained to that land.

- 4.4 In respect of the Southern Industrial Zone the Master Plan notes that *"a significant proportion of the SIZ is presently given over to landfill operations and waste treatment facilities. Recent assessments suggest a potential existing landfill capacity of up to 10 million cubic metres. This offers ample space to accommodate, at much lower cost than off-site disposal, residual materials arising from the site remediation operations across the South Tees Area, whilst permitting existing privately operated waste management businesses to continue."* (page 108)
- 4.5 Plot 157 comprises the landfill known as "High Tip". The above passage suggests that its inclusion in the Order is based on an assumption that in so doing there would be a substantial cost saving as against paying commercial rates to the operator of that landfill. This is a flawed assumption (since the compensable value of the land would reflect its remaining capacity as an operational landfill which the Order proposes to maintain). This is, in any event, a wholly unacceptable basis on which to promote the compulsory acquisition of land. The acquiring authority plainly has no alternative use in mind for plot 157, which should be excluded from the Order prior to confirmation, together with necessary savings to preserve access.
- 4.6 Further, there are several disparities between the Statement of Reasons and the Order. Paragraph 3.10 of the Statement of Reasons, for example, appears to refer to plots which do not exist within the Order. Prior to confirmation the Order may need to be further modified to address the implications of these apparent errors.

## 5. **CONCLUSION**

- 5.1 The proposed justification for the Order is fundamentally misconceived, and significantly premature. On a realistic assessment the Order is not currently necessary for the regeneration of the Order Land, and it is not likely in any event to improve either the likelihood of that regeneration occurring or the timescale over which it may occur. As such the Order exceeds the STDC's statutory authority and may not lawfully be confirmed. It is in any event not supported by a compelling case in the public interest, and significant obstacles to its implementation exist including not least the lack of any demonstration of adequate funding. The interference with relevant Article I of the First Protocol: protection of property rights does not strike a fair balance, and is wholly unjustifiable and unlawful. Accordingly the Order should not be confirmed.
- 5.2 In the alternative, the Secretary of State is asked not to confirm the Order unless it is first modified to exclude at the very least Plots 1, 2 and 3 and plot 157 from the scope of the Order, together with necessary savings to ensure preservation of access to that land.

**9 MAY 2019**