

Riverside Energy Park

Applicant's response to Creek Side Developments Deadline 3 Submission

VOLUME NUMBER:

08

PLANNING INSPECTORATE REFERENCE NUMBER:

EN010093

DOCUMENT REFERENCE:

8.02.33

July 2019 | Revision 0 (Deadline 4)

Planning Act 2008 | Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

1 Applicant's response to Creek Side Developments Deadline 3 Submission

Introduction

- 1.1.1 Spring Law Solicitors on behalf of Creek Side Developments (Kent) Limited ("Creek") acknowledged that it had received the response from Cory Environmental Holdings Limited ("Applicant") to its Relevant Representation in Document Reference 8.02.03.
- 1.1.2 Both parties acknowledge the meeting on 21 March 2019. Reference is made to the following points:
- 1.1.3 The proposed development of Riverside Energy Park ("REP") and its effect on the site to be purchased by Creek, which is designated as Plot Number 02/52 on the land plans for possible temporary use as referred to in **Schedule 9** of the **draft Development Consent Order ("DCO") (3.1, REP3-004)** .
- 1.1.4 The proposals for a lease of Creek's site to the Applicant for temporary use in connection with the Proposed Development.
- 1.1.5 Negotiations are continuing between the Applicant and Creek regarding a proposed lease of Creek's site to the Applicant for temporary use in connection with the Proposed Development.
- 1.1.6 Negotiations regarding such lease for temporary use remain to be progressed by the Applicant and this is not yet agreed, confirmed or finalised.
- 1.1.7 Spring Law Solicitors (on behalf of Creek) last reverted to the Applicant on the draft heads of terms for such lease and the draft agreement for lease on 30 May 2019 and the Applicant's further response to this is currently awaited.
- 1.1.8 The Applicant is willing to continue to seek agreement with Creek for temporary use by way of a lease of Creek's site in connection with the Proposed Development. Creek is also keen to continue to seek to progress such negotiations further with the Applicant. Creek awaits hearing further from the Applicant on this lease.
- 1.1.9 Creek continues to object to REP based on the anticipated effect on the Creek site, citing its value, use, possession, development and ownership.

REP response

- 1.1.10 At the date of the meeting of 21 of March 2019, Creek was not the legal owner of plot 02/52. Creek only had an equitable interest in the land having agreed the terms to purchase plot 02/52 from the freeholder Seamus Gannon (SG) and having exchanged a contract for sale whereby completion was dependent on certain conditions being satisfied.

- 1.1.11 During the meeting of 21 March 2019 the Applicant explained its intentions regarding plot 02/05. Creek wanted to progress an agreement for lease to be able to facilitate the Applicant's temporary use and occupation of plot 02/05 for REP.
- 1.1.12 At that point in time, the Applicant was unable to agree a lease over plot 02/52 with Creek due to the fact that Creek only had an equitable interest in the site and was not the legal owner of plot 02/52. Given the ownership position in relation to plot 02/52, the Applicant was therefore in the process of drawing up the terms of a tripartite agreement/option for lease between the Applicant, Creek and SG.
- 1.1.13 Creek confirmed that its intention was to purchase plot 02/52 from SG as soon as possible. Following this, Creek would be able to enter into an option agreement for a lease directly with the Applicant.
- 1.1.14 The Applicant can confirm that since the meeting on 21 of March 2019, negotiations have continued between the Applicant and Creek regarding the proposed lease over plot 02/52 to the Applicant for temporary use in connection with construction of Riverside Energy Park. However, there was a short delay in lease negotiations pending the completion of Creek's acquisition of the site. During this time the Applicant regularly sought status updates on the completion of the acquisition of the land from Creek.
- 1.1.15 Creek has now confirmed that it completed the freehold purchase of plot 02/52 on 21 June 2019.
- 1.1.16 As Creek is now the freehold owner, the Applicant is now able to further negotiations in relation to a lease on plot 02/52. The Applicant can confirm that it is willing to continue to seek agreement with Creek for temporary use by way of a lease of Creek's site (plot 02/52) in connection with Riverside Energy Park.
- 1.1.17 Heads of Terms for a lease were agreed between the parties on 02 July 2019, with all supporting documentation provided for Creek to review and revert back with any comments to the Applicant.
- 1.1.18 Creek are drafting the formal lease between the parties.
- 1.1.19 However, in the unlikely event that Creek and the Applicant are unable to reach an agreement on lease terms, the basis of Creek's objection can be fully addressed by the Compensation Code, where Creek will be provided with fair compensation.