

**Summary of Oral Representations, Compulsory Acquisition Hearing 1, 29 March 2023
Joint representations for Clive Hay-Smith (20033312) Paul Middleton (20032995) and Priory
Holdings Limited (20033311)**

The Secretary of State will have regard to whether the Applicant has met the following tests for compulsory acquisition.

- I. Applicant must have a clear idea of how they intend to use the land which it is proposed to acquire

The Applicant is seeking flexibility to construct two developments either independently, concurrently or sequentially. The temporary possession period associated with sequential construction would have a major adverse effect on affected farmland. This flexibility to construct one or other of separate developments under range of development options and scenarios (with associated uncertainty for Affected Parties), shows the Applicant does **not** have a clear idea how they intend to use the land.

Mr Hay-Smith confirmed he had been in engagement with Equinor since 2020, however that negotiations had stalled in part due to serious illness in 2022.

- II. Reasonable efforts to acquire land or rights by agreement

The Applicant's offer for a private agreement is not reasonable, being conditional on agreement to unnecessary and onerous landowner restrictions as follows:

- a) Affecting an area extending well beyond the DCO Order Limits (estimated at 20 acres at the Hearing; this was a significant underestimate, corrected as follows):
 - Clive Hay-Smith – 55.5 acres of which are outside DCO Order Limits
 - Paul Middleton – 14.5 acres outside DCO Order Limits

NB: An update on this matter reflecting progress in discussions between the parties has been submitted as a Joint Response to the ExA's Second Written Questions (Q2.13.3.1).

- b) For rights over and above the minimum sought in the DCO, including a restriction on routine farming operations requiring the Applicant's consent to (for example); excavations, planting trees / hedges, any work that would constitute 'development'

The terms of the Applicant's offers are relevant to the Examination and the powers of compulsory acquisition that the Applicant seeks, as they speak directly to whether 'reasonable' efforts to acquire land or rights by agreement have been made. The terms sought by agreement are not reasonable or proportionate, being unnecessary (going well beyond the rights sought in the DCO application itself both in scope and area) and would affect the Affected Parties use and enjoyment of the land.

The recent decision to refuse The London Borough of Barking and Dagenham Council (Vicarage Field and surrounding land) Compulsory Purchase Order 2021 (Case Ref: APP/PCU/CPOP/Z5060/3278231) is relevant. The Inspector considered at length whether offers and negotiations had been reasonable, then making reference in her decision to refuse the order:

"my concerns that inadequate negotiations have taken place, when considering the CPO Guidance."

It is the Affected Parties' position that if the Applicant does not make reasonable efforts to acquire land or rights by agreement (i.e. outside of the examination process and the powers sought in the DCO) then this is directly relevant to whether the powers of compulsory acquisition that the Applicant seeks should be granted in the DCO.

The Affected Parties are committed to seek agreement with the Applicant on reasonable terms.