

Planning Act 2008 – section 92

Application by Awel y Môr Offshore Wind Farm Limited (the Applicant) for an Order Granting Development Consent for the Awel y Môr Offshore Wind Farm project (Ref EN010112).

Agenda for a Compulsory Acquisition Hearing (CAH) dealing with matters relating to Compulsory Acquisition (CA) and Temporary Possession (TP).

Tuesday 28 February 2023 at 9:30am.

Notification of the date, time, location and attendance instructions for the CAH was provided in the Examining Authority's (ExA's) [letter](#) dated 7 February 2023.

Agenda

1. Welcome, introductions and arrangements for the hearing

2. The Applicant's case for CA and TP

The ExA will ask the Applicant to briefly present and justify its case for CA and TP, including addressing the following matters:

- Identification of the powers sought and their purposes
- Relevant dDCO provisions
- How the relevant statutory and policy tests under the Planning Act 2008 (PA2008) (including s122, s123, s127, s132 and s138) and Department for Communities and Local Government guidance related to compulsory acquisition would be met
- The Applicant's strategy / criteria for determining whether to seek powers for CA of land, CA of rights or TP of land
- Consideration of alternatives to CA / TP
- Human rights considerations

The ExA will ask questions in relation to the Applicant's case for CA and TP (see **Annex A**).

The ExA will invite submissions from Affected Persons (APs) who wish to raise general matters in relation to the Applicant's case for CA and TP. However, site-specific submissions will be reserved to agenda items 3 and 4.

The Applicant will be provided with a right of reply.

3. Site-specific issues for the Applicant

The ExA will ask the Applicant to provide an update on the progress of negotiations with APs and the timetable for their conclusion.

The ExA will ask questions of the Applicant about negotiations and matters arising from written and oral submissions (see **Annex A**).

4. Site-specific representations by APs

The ExA will ask APs to briefly set out any outstanding concerns in relation to CA / TP for the land in which they have an interest that have not been addressed by the Applicant.

The ExA may ask questions of APs about matters arising from written and oral submissions.

The Applicant will be provided with a right of reply.

5. Statutory Undertakers

The ExA will ask the Applicant to summarise any outstanding matters arising from representations by Statutory Undertakers.

Any Statutory Undertaker or other relevant body in attendance and wishing to speak in relation to an objection or issue raised that is relevant to the effects of the Proposed Development on its undertaking, apparatus or land will be invited to put oral submissions to the ExA.

The ExA will ask questions of the Statutory Undertaker or other relevant body, and the Applicant, about matters arising from written and oral submissions (see **Annex A**).

The Applicant will be provided with a right of reply.

6. Crown Land

The ExA will ask the Applicant (and any Crown authorities present) to provide an update on matters relating to Crown land and s135 of PA2008.

The ExA will ask questions in relation to Crown land matters (see **Annex A**).

7. Funding

The ExA will ask the Applicant to briefly summarise, and advise of any updates to, the Funding Statement.

The ExA may ask questions around funding matters.

8. Review of issues and actions arising

The ExA will address how any actions placed on the Applicant are to be met.

9. Any other matters

10. Closure of the hearing

Notes on participation, conduct and management of the hearing

All APs are invited to attend the CAH. The event will also be livestreamed and a link for watching the livestream will be posted on the [project page](#) of the National Infrastructure Planning website closer to the event date.

Each AP is entitled to make oral representations at the CAH. However, this is subject to the ExA's power to control the hearing.

The ExA would find it helpful for the following attendees to participate in the CAH:

- **The Applicant** - including representatives who are in a position to discuss the matters on the agenda
- **Any Affected Persons** - who wish to discuss CA / TP matters
- **Statutory Undertakers** - including Network Rail Infrastructure Limited, National Grid Electricity Transmission plc (NGET), Dŵr Cymru / Welsh Water, North Hoyle Wind Farm Ltd, Rhyl Flats Wind Farm Ltd and SP Manweb plc
- **Any Crown authorities** - who wish to discuss matters relating to Crown land

Participants may be legally represented if they wish, but the hearing will be conducted to ensure that legal representation is not required. Guidance under PA2008 and the Infrastructure Planning (Examination Procedure) Rules 2010 provide that it is the ExA that will probe, test and assess the evidence through direct questioning of persons making oral representations at hearings. Questioning at the hearing will be led by the ExA.

Every effort will be made to ensure that the issues will be discussed on the day that they are scheduled for. The hearing will finish as soon as the ExA deems that all those present have had their say and that all matters have been covered. If there are additional matters to be dealt with or there are submissions that take a considerable amount of time at any hearing, it may be necessary to prioritise matters and defer others to written questions.

The agenda is for guidance only. It is not designed to be exclusive or exhaustive. The ExA may add other issues for consideration, may alter the order in which issues are considered and will seek to allocate sufficient time to each issue to allow proper consideration of them. Any lack of discussion of a particular issue at a hearing does not preclude further examination of this issue, including the asking of further written questions.

All Examination documents are provided with a unique identification number for referencing purposes shown in square brackets [].

The evidence presented orally at the CAH should be included in post-hearing submissions and submitted by **Wednesday 15 March 2023 (Deadline 8)**.

The ExA will endeavour to hear all participants and cover all relevant questions. However, if the CAH, or parts of it, is unable to proceed, for example for technical reasons, then the ExA may complete business via a written process.

Purpose of the CAH

The main purpose of the CAH is:

- To enable the ExA to inquire into the Applicant's case for CA of land or rights over land and / or to take TP of land
- To discharge the ExA's duty to hear any APs who request to be heard

- To enable the ExA to consider whether relevant legal and policy test applicable to CA / TP proposals have been met
- To address any related matters

Microsoft Teams

The CAH will take place in person and virtually using Microsoft Teams. Further information about virtual events in relation to Nationally Significant Infrastructure Projects can be found in the Planning Inspectorate's Advice Note 8.6: Virtual examination events:

<https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/advice-note-8-6-virtual-examination-events/>

Further information, including a short video regarding taking part in a Planning Inspectorate virtual event, can be found on the Planning Inspectorate's website:

<https://www.gov.uk/government/publications/planning-inspectorate-virtual-events-guide-to-participating>

Please contact the Case Team if you have any questions about using Microsoft Teams or if you would like to test your access arrangements:

awelymor@planninginspectorate.gov.uk

0303 444 5000

Annex A

Questions to the Applicant will include, though will not necessarily be limited to, the following matters:

Agenda Item 2

Powers sought:

Clarification of powers sought as shown in Table 1 of the Book of Reference (BoR) (and on the Land Plans), with particular reference to the specification of 'new rights' only, noting that articles of the dDCO (i.e. A20, A22 and A29) would also allow for the acquisition of rights already in existence.

Scope of dDCO Article 27(8):

The appropriateness of including provision for the CA of rights over land identified for TP only (given that any land subject to CA of rights / restrictive covenants is included in Schedule 7 and provision is made for this in Article 20 and that there is no apparent crossover of Schedule 6 (TP) and Schedule 7 (CA of rights)).

S127 of PA2008:

In terms of the negotiations document (Deadline 6 version of [REP5-025]) and whether it correctly identifies s127(6) as relevant to seven Statutory Undertakers, given that only two of them are identified in the BoR as landowners (Network Rail Infrastructure Limited and Dŵr Cymru / Welsh Water).

Agenda Item 3

Negotiations document:

In terms of paragraph 1 stating that leaseholders and tenants are listed below respective landlords, though, for example, the owner of Plot 17, the owner of Plot 285 and the owner of Plot 331 as shown in the BoR (Deadline 6 version of [REP5-022]) are listed in the negotiations document but the respective lessees / tenants are not.

In terms of why the document does not include some occupiers, for example those listed under Plot 17, Plot 285 and Plot 331 in the BoR?

In terms of why some APs are listed numerous times in the document.

In terms of why submissions [REP5-036] and [REP5-037] indicate a different date for the most recent negotiations to that indicated in the document.

In terms of why entries 28 and 29 in the CA Schedule (Deadline 6 version of [REP5-027]) do not appear within the document (whilst noting also that the organisation under entry 29 does not appear in the BoR).

Whether, for ease of reference, and notwithstanding they are not included within the BoR, the Applicant could include a separate section within the document detailing negotiations with North Hoyle Wind Farm Ltd (NHWF) and Rhyl Flats Wind Farm Ltd (RWF).

BoR:

In terms of whether it is correct to include in the BoR the agent that submitted [AS-048].

In terms of whether the Applicant has undertaken any further investigations into the 'unknown' interests in some plots, such as Plots 96, 97 and 98.

CA Schedule:

Whether, as the Welsh Government has made submissions, including in respect of the A55 [REP1-097], the Welsh Ministers as the Crown authority for land interests associated with the A55 plots and as the highway authority for the A55 should be included in the schedule (or whether 'the Welsh Government' alone is adequate)?

Whether, for ease of reference, the information as it appears in the negotiations document could be copied over into the relevant parts of the CA Schedule.

Plot matters:

In terms of how the Applicant (or any subsequent landowner) would be prevented in the future from permanently stopping up the public right of way over Plot 416 (for which CA of land is proposed).

In terms of Plots 416 and 417, and submissions relating to these plots, including around: the necessity for CA of all the land; and relevant policy requirements relating to biodiversity enhancement quantum.

In terms of clarification relating to the Applicant's mention of other land farmed by Faenol Broper [REP1-007].

In terms of AP concerns [REP5-034] around time periods for the CA of rights sought and the necessity for certain plots within the Order land (i.e. Plots 142 and 145).

Agenda Item 5

Protective Provisions:

In terms of any outstanding disputes between Network Rail Infrastructure Ltd and the Applicant and possible solutions; implications if protective provisions are not agreed by the close of the Examination; whether consideration has been given to the use of protective provisions as per other made dDCOs (i.e. Norfolk Boreas and Hornsea Three).

In terms of any outstanding disputes between Dŵr Cymru / Welsh Water / NGET / NHWF / RFWF and the Applicant and possible solutions; and implications if protective provisions are not agreed / other agreements are not reached with these parties by the close of the Examination.

Agenda Item 6

Crown consent:

In terms of implications for the Proposed Development should the relevant Crown authority consents not be forthcoming by the close of the Examination.