



# The Planning Inspectorate

## Planning Act 2008 – Section 92

### Application by RWE Renewables UK Dogger Bank South (West) Ltd and RWE Renewables UK Dogger Bank South (East) Ltd for an Order granting Development Consent for the Dogger Bank South Offshore Wind Farms

#### Agenda for Compulsory Acquisition Hearing

Hearing	Date and Time	Location
Compulsory Acquisition	<b>Tuesday 22 October 2024</b> <b>Hearing starts at 14:00<sup>1</sup></b>  Virtual event  Virtual Registration from: 13:30 <sup>2</sup>	By virtual means using Microsoft Teams

#### Hearings Guidance: Please see Annex A of this Agenda

All Affected Persons are invited to attend the Compulsory Acquisition Hearing. If you haven't notified us that you wish to speak, can you please contact the Case Team ([DoggerBankSouth@planninginspectorate.gov.uk](mailto:DoggerBankSouth@planninginspectorate.gov.uk)) as soon as possible.

Each Affected Person is entitled to make oral representations at hearings. However, this is subject to the power of the Examining Authority (ExA) to control the conduct and management of hearings.

The event will be open 30 minutes prior to the start of the hearing to enable a prompt start. Hearings will finish as soon as the ExA deems that all those present have had their say and that all relevant matters have been covered.

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.

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<sup>1</sup> If you are joining as an active participant, please follow the joining instructions for the virtual event carefully and connect to the Hearing in good time. In common with traditional Hearings, the event will start on time irrespective of any late arrivals, for whom access may not be possible.

<sup>2</sup> Full instructions on how to join online or by telephone will be provided in advance of the meeting to those who register to participate.

Every effort will be made to ensure that the issues will be discussed on the day that they are scheduled for. Should the consideration of these issues take less time than anticipated, the ExA may conclude the Hearing as soon as all relevant contributions have been made and all questions asked and responded to.

If there are additional matters to be dealt with or there are submissions that take a considerable amount of time, there may be a need to continue the session for longer on the day. Alternatively, it may be necessary to prioritise matters and defer others to further written questions.

**Purpose of this Compulsory Acquisition hearing:**

The main purpose of the compulsory acquisition hearing is:

- to consider the compulsory acquisition and related provisions within the draft Development Consent Order (DCO);
- to consider whether the conditions relating to the purpose for which compulsory acquisition may be authorised would be met;
- to discharge the ExA's duty to hear persons affected by Compulsory Acquisition (CA) and Temporary Possession (TP) proposals (Affected Persons) who requested to be heard; and
- to address related matters.



# The Planning Inspectorate

## Agenda

<b>Title of meeting</b>	Dogger Bank South Offshore Wind Farms Compulsory Acquisition Hearing
<b>Date</b>	Tuesday 22 October 2024
<b>Time</b>	14:00
<b>Venue</b>	Virtual event
<b>Attendees</b>	Invitees

### **1 Welcome, introductions, arrangements for the Hearing**

### **2 Matters arising from the supplementary agenda**

### **3 Sections 122 and 123 of the Planning Act 2008 (PA2008)**

- The Applicant to briefly outline the case for Compulsory Acquisition (CA) and Temporary Possession (TP) and whether it meets the tests of the PA2008 including whether all reasonable alternatives have been considered; whether the rights to be acquired are reasonably necessary and proportionate and there is a compelling case in the public interest for the land to be acquired.
- The Applicant to provide a brief update on the progress of negotiations and deadlines for their conclusion.
- Affected Persons to briefly set out any outstanding concerns that have not already been discussed.

### **4 Section 127 of the PA2008 with particular reference to Part 5 and Schedule 15 of the draft Development Consent Order (DCO)**

- The Applicant to provide an update with regard to the progress on agreeing Protective Provisions in light of the submissions made in the Relevant Representations.

### **5 Sections 131 and 132 of the PA2008**

- The Applicant to set out the case for CA and TP with regards to sections 131 and 132 (Commons, Open Space or Fuel or Field Allotments).

### **6 Section 135 of the PA2008 – Crown land**

- Applicant to confirm whether all Crown land has been identified in Part 4 of the Book of Reference (BoR) and on the Crown land plans given that all plots which the Crown has an interest in should be identified.

- Whether the draft DCO would effectively prevent CA of any interest held by or on behalf of the Crown with particular reference to Article 41.
- Applicant to provide an update on the progress of obtaining Crown consent.

## **7 Funding**

- The resource implication of both acquiring the land and implementing the project for which the land is required.
- Whether adequate funding is likely to be available to enable CA to proceed within the statutory time period should the DCO be made.

## **8 Action Points arising from the Hearing**

## **9 Any other business**

## **10 Close of Hearing**

### **Attendees:**

All Affected Persons are welcome to attend the hearing. However, the ExA considers that representatives for the following parties should consider attending because the ExA believes that the material that they have submitted raises issues that may need to be explored at the hearing:

- The Applicant;
- Affected Persons objecting to the granting of CA and/ or TP powers;
- The Crown Estate;
- Network Rail
- Relevant statutory undertakers

The Applicant is requested to have people with the following expertise to assist the hearing:

- Land Agents;
- Chartered Surveyors; and/ or
- Legal advisors

who are responsible for: the drafting of the CA and TP powers in the draft DCO; the selection of land and the assembly of portfolios of permanent and temporary land and rights necessary for the delivery of the proposed development; the provision and maintenance of the CA and TP documents including the Land Plans, Book of Reference and Statement of Reasons; and, the due diligence process over land and rights.

This list may also assist other Interested Parties in preparing for the hearing.

List of documents for the Applicant to potentially present at the hearing:

- [APP-012] Works Plans (onshore)
- [APP-013] Land Plans (onshore)
- [APP-014] Special Category Land Plan
- [APP-015] Crown Land Plan

- [APP-027] The draft Development Consent Order
- [APP-028] Explanatory Memorandum
- [APP-031] Book of Reference
- [APP-033] Funding Statement

## Conduct and Management of Hearings

The Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010 provide that the ExA that will probe, test and assess the evidence at hearings through direct questioning of persons making oral representations. Questioning at this Hearing will therefore be led by the ExA. Cross questioning of the person giving evidence by another person will **only** be permitted if the ExA decides it is necessary to ensure representations are adequately tested or that a person has had a fair chance to put their case. Parties wishing to make a representation will be invited to do so at the ExA's discretion.

The ExA will begin the Hearing with opening comments and introductions, then will run through housekeeping matters and explain how the Hearing will be conducted. The ExA's expectation is that each hearing session will typically last for one to two hours. However, the actual duration will depend on the progress made on the day and will be subject to the ExA's powers of control over the conduct of the Hearing.

The agenda may be amended by the ExA at the start of the Hearing or throughout its course. Furthermore, the ExA may wish to raise matters arising from oral submissions and Relevant Representations, and pursue lines of inquiry that are not listed on the agenda in the course of the discussion.

The Hearing is being held at the discretion of the ExA to consider matters that it considers to be important and relevant to the effective and robust examination of the application. Consequently, the business of the Hearing will be limited to the matters identified in the agenda or otherwise raised by the ExA.

Active participation is at the invitation and discretion of the ExA. Oral submissions must address the matters and questions identified on the Hearing agenda or raised by the ExA at the hearing. Oral submissions on other subject matters or from persons who have not been invited to speak by the ExA may only be heard at the discretion of the ExA, who may decide that such matters are not heard in the interests of relevance, efficiency or fairness.

A recording and transcript of the Hearing will be published by the Planning Inspectorate on the project page of the national infrastructure website<sup>3</sup> and any Interested Party may make a written submission on the specific matters either included in the agenda or arising at the Hearing by **Deadline 1, 8 November 2024**.

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<sup>3</sup> [Dogger Bank South Offshore Wind Farms - Project information \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/dogger-bank-south-offshore-wind-farms-project-information)



# The Planning Inspectorate

## Compulsory Acquisition Hearing (CAH1)

Tuesday 22 October 2024

### Supplementary Agenda Additional Questions

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As set out in the Examination Timetable, the Examining Authority (ExA) has decided to substitute the normal practice of issuing written questions with the Rule 8 letter as the ExA believe that the responses received to Deadlines 1 and 2 will reduce the need for the ExA to ask a significant number of written questions.

Nevertheless, in preparation for this Hearing, the ExA has a number of questions which it considers require relatively straightforward responses, clarification and/ or the submission of additional information/ evidence. Rather than use the time at the Hearing to discuss these matters, the ExA has listed these questions in the table below and would ask that responses be submitted at **Deadline 1, 8 November 2024**. If anyone considers that the ExA need to explore these matters orally then, as detailed on the agenda, there will be the opportunity at the start of the Hearing to raise this with the ExA.

The questions below are based on the draft Development Consent Order (DCO) volume 3 dated June 2024 [APP-027]. Please note that the ExA is required to submit a draft Development Consent Order with its report to the Secretary of State regardless of its recommendation. Therefore, the questions and comments below are made on a without prejudice basis.

Number	Subject	Response by	Question/ Clarification
<b>ARTICLES</b>			
CAH1.SA.01	Drafting	Applicants	<b>Referencing of sections of Acts</b> Throughout Part 5 there is an inconsistency in the way that sections/ parts of relevant Acts are referred to. In some instances, the section/ part is just referred to numerically eg Section 5A and sometimes it is quoted in full eg Section 5A ( <i>time limit for general vesting declaration</i> ). For precision, please check Part 5 and amend so the approach is consistent.
CAH1.SA.02	Drafting	Applicants	<b>Article 20(1) and (2)</b>

Number	Subject	Response by	Question/ Clarification
			Should these articles include reference to operation? eg "...may acquire compulsorily so much of the Order land as is required for the DBS East/ West works, or to facilitate, or is incidental to, the construction, <b>operation</b> and maintenance of the DBS East/West Works."
CAH1.SA.03	Clarification	Applicants	<b>Article 20(4)(b)</b> As currently drafted, this refers to paragraph (2) of Article 22. Paragraph (2) of Article 22 is a reciprocal paragraph between DBSWL and DBSEL. Confirm if this is correct and if not, please amend accordingly.
CAH1.SA.04	Drafting	Applicants	<b>Article 20(4)</b> Should the list in this paragraph include a reference to Schedule 15 (Protective Provisions)? If so, amend as necessary.
CAH1.SA.05	Clarification	Applicants	<b>Article 22(6)</b> Should this include reference to paragraph (3)? eg "in any case where the acquisition of new rights or the imposition of restrictive covenants under paragraphs (1), (2) and <b>(3)</b> is required..."
CAH1.SA.06	Drafting	Applicants	<b>Article 22</b> Is additional drafting required at the end of this article in relation to compensation in respect of a right by the imposition of a new right or restriction? eg " <b>Subject to the modifications set out in Schedule 8 the enactments for the time being in force with respect to compensation for the compulsory purchase of land are to apply in the case of a compulsory acquisition under this Order in respect of a right by the creation of a new right or imposition of a restriction as they apply to the compulsory purchase of land and interests in land</b> "
CAH1.SA.07	Drafting	Applicants	<b>Article 23 (1)(a)</b> As currently drafted 23(1)(a) only refers to the acquisition of land. Given that you also seek the acquisition of rights and the imposition of restrictions and this could be achieved through the grant of a lease, should this paragraph be amended as follows? From the date of acquisition of the land, <b>or of the right, or of the benefit of the restriction</b> by the undertaker, whether compulsorily, by agreement, <b>or through the grant of a lease of the land by agreement; or</b> "
CAH1.SA.08	Clarification	Applicants	<b>Article 23 (2)(a)</b> As currently drafted, this only refers to the imposition of the restrictive covenants, is this correct or should this be amended to the imposition of " <b>the restriction</b> " to allow for other forms of control?



Number	Subject	Response by	Question/ Clarification
CAH1.SA.09	Drafting	Applicants	<b>Article 23 (2)(b)</b> To improve the precision of the drafting should “in pursuance of the right” be added to the end of (2)(b)? eg “on the date of entry on land by the undertaker under section 11(1) of the 1965 Act (powers of entry) <b>in pursuance of the right;</b> ”
CAH1.SA.10	Drafting	Applicants	<b>Article 23 (3)</b> As currently drafted this paragraph only refers to private rights, should it include a reference to restrictions? eg “Subject to the provisions of this article, all private rights <b>or restrictions</b> over land....”
CAH1.SA.11	Clarification	Applicants	<b>Article 23 (6)(a)(i)</b> As for Article 23 (2)(a), as currently drafted this only refers to the imposition of the restrictive covenants. Is this correct or should this be amended to the imposition of “ <b>the restriction</b> ” to allow for other forms of control?
CAH1.SA.12	Drafting	Applicants	<b>Article 23 (6)(b)</b> As currently drafted this only refers to a right, should it also include a reference to restrictions and should it include a reference to benefits as well as belongs? eg “any agreement made at the time between the undertaker and the person in or to whom the right <b>or restriction</b> in question is vested or belongs <b>or benefits</b> ”
CAH1.SA.13	Drafting	Applicants	<b>Article 23 (7)(a)</b> As for Article 23 6(b) should the drafting also include a reference to restrictions and should it include a reference to benefits as well as belongs? eg “is made with a person in or to whom the right <b>or benefit</b> is vested, belongs <b>or benefits</b> ”
CAH1.SA.14	Drafting	Applicants	<b>Article 25 (3)</b> As currently drafted this only refers to rights, should it also include a reference to restrictions? eg “The interests and rights to which this article applies are any easements, liberty, privilege, right or advantage annexed to land and adversely affecting land, including any natural right to support <b>and any restrictions as to the use if land arising by virtue of a contract.</b> ”
CAH1.SA.15	Clarification	Applicants	<b>Article 26 (4)(a)</b> Does this need to include reference to the modifications allowed by Schedule 8? eg “Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act <b>as modified by Schedule 8 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants).</b> ”
CAH1.SA.16	Clarification	Applicants	<b>Article 27 (a)</b>

Number	Subject	Response by	Question/ Clarification
			Provide further detail as to why paragraph 8(3) does not need to be incorporated for the Proposed Development.
CAH1.SA.017	Clarification	Applicants	<b>Article 28(5)(b)</b> The articles referred to in the insertion appear to be incorrect; article 26 refers to (temporary use of land for carrying out the authorised project) and article 27 refers to (temporary use of land for maintaining the authorised development). However, article 26 in the draft DCO refers to (acquisition of subsoil or airspace only) and article 27 refers to (Compulsory acquisition of land: minerals). Check and amend as necessary.
CAH1.SA.18	Clarification	Applicants	<b>Article 30 (1)(c)</b> Is this list complete or should it also include services and signage? Amend as necessary.
CAH1.SA.19	Drafting	Applicants	<b>Article 30 (1) (g)</b> For precision should this include a reference to which Part of the draft DCO it refers to as is done in 30 (1)(f)? eg "...subject to the requirements in <b>Part 2</b> of Schedule 2".
CAH1.SA.20	Clarification	Applicants	<b>Article 30 (4)(c)</b> As currently drafted, this only relates to works carried out in Schedule 3 (streets subject to street works). Would this include any new footpath surface or enhancements to footpaths that would be carried out to any footpaths, or works to bridges under this article and if it does for precision, should this be included in the drafting? eg "remove any new road surface or other improvements carried out under this article or any street specified in Schedule 3 (streets subject to street works) <b>or any new footpath surface or other enhancements carried out under this article to any footpath or any improvements carried out under this article to any bridge;</b> "
CAH1.SA.21	Drafting	Applicants	<b>Article 31 (1)</b> As currently drafted, would the article allow for the undertaker to enter onto land for the purposes of gaining access for maintaining the authorised project, or does this need to be explicitly stated within the drafting? eg "enter on any of the land within the Order limits for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised project".
CAH1.SA.22	Clarification	Applicants	<b>Article 31 (11) (a)</b> As currently drafted, this refers to Requirement 12(2) of the draft DCO which relates to the ecological management plan. Requirement 10(3) deals with the provision of a

Number	Subject	Response by	Question/ Clarification
			landscape management plan and Requirement 11 deals with the implementation and maintenance of landscaping. Check and amend as necessary.
CAH1.SA.23	Clarification	Applicants	<b>Article 32 (1)</b> As currently drafted, this only refers to the Article and not the Schedule. For completeness should this also include reference to Schedule 15?
CAH1.SA.24	Clarification	Applicants	<b>Article 32 (1)(a)</b> For completeness should “and as described in the Book of Reference” be added to the end of (1)(a).
CAH1.SA.25	Clarification	Applicants	<b>Article 32 (1)(b)</b> In order to cover all options should the following additional drafting be added to (1)(B) “extinguish <b>or suspend</b> the rights of <b>or the restrictions for the benefit of or</b> remove, <b>relocate</b> or reposition apparatus belonging to statutory undertakers, <b>over or</b> within the Order limits”.
<b>Schedule 8</b>			
CAH1.SA.26	Clarification	Applicants	<b>Schedule 8 (4)</b> As currently drafted, this paragraph refers to Articles 24 ( <i>modification of Part 1 of the 1965 Act</i> ), 18 ( <i>Compulsory Acquisition of land</i> ) and 20 ( <i>compulsory acquisition of rights</i> ) of Part 5 of the draft DCO. However, the references seem to be incorrect as in the draft DCO Article 24 deals with the application of the 1981 Act, Article 18 provides for the authority to survey and investigate land onshore and Article 20 deals with the compulsory acquisition of land. Can you check and amend as necessary.
CAH1.SA.27	Clarification	Applicants	<b>Schedule 8 (5) (5)</b> As currently drafted, this refers to Article 18. Article 18 provides for the authority to survey and investigate land onshore. Please check whether this should refer to Articles 20 (compulsory acquisition of land) and/ or Article 22 (compulsory acquisition of rights) and amend as necessary.
CAH1.SA.28	Clarification	Applicants	<b>Schedule 8 (5) (7)</b> As currently drafted, this refers to Article 24 (4) which refers to the application of the 1981 Act. Should it refer to Article 28 (4) which refers to the modification of Part 1 of the 1965 Act? Check and amend as necessary.
CAH1.SA.29	Clarification	Applicants	<b>Schedule 8 (5) (8) (1) (1)</b> As currently drafted, this refers to Article 22 (application of 1981 Act) of the draft DCO. However, Article 22 deals with the compulsory acquisition of rights. Should it

Number	Subject	Response by	Question/ Clarification
			refer to Article 24 which deals with the application of the 1981 Act? Check and amend as necessary.
CAH1.SA.30	Clarification	Applicants	<p><b>Schedule 8 (5) (8) (1) (2)</b>  As currently drafted, this refers to Article 23(4) (acquisition of subsoil or airspace only) of the draft DCO. However, Article 23 deals with private rights over land. Should it refer to Article 26 with deals with acquisition of subsoil or airspace only? Check and amend as necessary.</p>