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We are not prepared to accept formal service of documents by electronic mail.

Our Reference 1003/KLN/SEA200/35

Step No 13265310

Please Ask For Michael Bonehill (DDI: 020 8514 9008)

Your Reference

Date 12 June 2024

BY SPECIAL DELIVERY
FAO: Sarah Norris
The Planning Inspectorate
National Infrastructure Planning
Temple Quay House
2 The Square
Temple Quay, Bristol, BS1 6PN

Also by email:
corydp@planninginspectorate.gov.uk

Dear Sirs

THE RIVERSIDE ENERGY PARK ORDER 2020

RIVERSIDE ENERGY PARK ORDER 2020 GENERAL VESTING DECLARATION NO.2

THE VESTING DATE

We act on behalf of Seamus Gannon the owner of land at Norman Road, Belvedere registered at the Land Registry under title number K72213.

Our client objects to the planning application that has been made to you by Cory Environmental Holdings Limited and objects to the compulsory purchase of his land. We, together with solicitors for Creekside Development (Kent) Limited have taken advice from Melissa Murphy KC of Landmark Chambers with regard to the matter and reserve the right to make further representations during the course of the matter as and when further information is available to us.

By way of background, our client originally purchased this property with a view to relocating one of his businesses to it and was then forced to grant a Lease of the land to The Cory Group in 2019 purported by Cory as a relatively short-term solution to aid with the company's Riverside 2 project or faced with Compulsory Acquisition at that time. His intention however is that the land should eventually be used for the purpose of carrying on one of the Gannon family's businesses which is already having to relocate for the Charlton Riverside Project in nearby Charlton, SE7.

The objections that we wish to raise can be summarised as follows:

1. The land is constrained, including by its Metropolitan Open Land designation, but there are also a range of nature conservation interests to take into account in addition. These tend to militate against the proposed project.

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Partners: Shaun Murphy LL.B. (Senior Partner), Lord Gerald Shamash BSc Hons., Hilary Green B.A., Robert Dynowski, Bradley Wright, Rakesh Bhasin, James Harrison LL.M., Anna Orpwood LL.B., Shabaz Ahmed LL.B.(Hons), Rajinder Garvey B.A., Gavin Blackman B.A., Kavita Rana LL.B., Simon May LL.B.(Hons), Anna Porting, Melissa Law.
Consultants: Charles Newman M.A. LL.M., Michael J Bonehill O.B.E., LL.B., FRSA, Albert George B.A.(Hons) Law, Bernard Huber LL.B., Tony Wolton LL.B., David Wershof LL.B.

2. Re ecological/biodiversity effects – it is not clear (but seems to be the case) that the proposal includes development on land identified as an area for ecological mitigation for Riverside 2. This seems undesirable, because the project then needs to address that impact.

3. That there seems not to be a compelling case in the public interest for the compulsory acquisition of the two land interests (as required by Section 122(3) of the Planning Act 2008), not least because:

   (i) There are alternative areas on which the development/construction compounds/ecological mitigation works could be delivered (and the proposals look to develop habitat created as part of the Riverside 2 scheme, which is undesirable);

   (ii) It is not clear whether there has been proper disaggregation of the elements of the proposed development in considering alternatives; and

   (iii) As matters stand, there is no proper justification for permanent rather than temporary acquisition of our client's land, particularly given the availability of alternative layouts/disaggregation of the proposals.

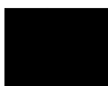
4. If my clients land is really required, it should be by way of a Lease for a defined period rather than by the acquisition of the freehold.

5. From information our clients surveyors hold from the Climate Council website it appears that a number of decarbonisation projects elsewhere have failed and the technology seems to be unreliable. See (https://www.climatecouncil.org.au/resources/what-is-carbon-capture-and-storage/#:~:text=Carbon%20capture%20and%20storage%20(CCS,gases%20back%20into%20the%20ground.)

Would you please register us and our client as interested parties as we to date have not been able to do this.

Please acknowledge receipt of this letter by email.

Yours faithfully



Edwards Duthie Shamash

Our Reference 1003/JMR/SEA200/35

Step No 12684792

Please Ask For Michael Bonehill (DDI: 020 8514 9008)

Your Reference

Date 24 November 2023

Edwards Duthie Shamash

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For Attention of Richard Wilkinson
Project Director
Cory Environmental Holdings Limited
Level 5
10 Dominion Street
London
EC2M 2EF

And by Email: ***info@corygroup.co.uk; decarbonisation@corygroup.co.uk***

Dear Sirs

Cory Decarbonisation Project
Statutory Consultation Under Section 42 of the Planning Act 2008
Regulation 13 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
Regulation 4 Infrastructure Planning (Applications Prescribed Forms and Procedures) Regulations 2009

We act on behalf of Seamus Gannon and have been passed a copy of your letter to him of 18th October 2023 with regard to the above mentioned matters.

Our client objects to the matter going forward in the way outlined in your letter of 18th October and objects to the compulsory purchase of his land. We, together with solicitors for Creekside Development (Kent) Limited have taken advice from Melissa Murphy KC of Landmark Chambers with regard to the matter and reserve the right to make further representations during the course of the matter as and when further information is available to us.

By way of background, our client originally purchased this property with a view to relocating one of his businesses to it and was then forced to grant a Lease of the land to The Cory Group. His intention however is that the land should eventually be used for the purpose of carrying on one of the Gannon family's businesses.

The objections that we wish to raise can be summarised as follows:

1. The Section 35 Direction is based on a materially out of date description of the project and that, as far as my clients can tell, Cory seems not to have followed the Secretary of State's advice to seek confirmation that the Project and development that is the subject of the proposed application is the same as that for which the Direction was given.

2. Counsel has advised that the changes in description of the project between the letter to Mr Gannon of 15th February 2023 and the letter of 18th October 2023 are quite significant and she does not understand why the Project will fall to be treated as an Nationally Significant Infrasture Project ("NSIP") and thus come within the Planning Act 2008 DCO regime. Counsel has conducted some investigation and has looked at some additional published information from Cory with regard to the Project, namely the Preliminary Environmental Information Report "PEIR" in that this is the most obvious source of more detailed information than was contained in the letters. We felt that understanding more about the Project was important.

The PEIR:

(a) Contains a more detailed scheme description than in the letters, see paragraph 1.1.5. It explains the intended links with the Riverside 1 and 2 facilities and the overall intended carbon dioxide capture.

(b) Paragraph 1.1.10 confirms that the Hydrogen Project element of the scheme (and in fact also a battery energy storage system) are no longer part of the project. The decision not to proceed with those elements was "made on commercial grounds".

(c) Importantly, paragraph 1.2.1 details the direction made by the Secretary of State that the project should be treated as an NSIP and should therefore follow the DCO process. There are two points on this:

(i) First, the decision to make a Section 35 direction seems to have been taken when the project had the additional Hydrogen Project element (see also paragraph 1.2.2); and

(ii) Secondly, the authors of the PEIR and indeed the correspondence have treated the s.35 direction as making the project "an NSIP". See, e.g. 1.2.1 and the letter of 18th October 2023. This is contrary to case law, which establishes that such directions by the Secretary of State determine the process to be followed, but do not turn a project which is not an NSIP under the Planning Act 2008 into that kind of project. This matters, because the decision making approach for different kinds of projects under the Act differs depending on whether or not the project is an NSIP. If it is, a decision is taken pursuant to Section 104 of the Planning Act 2008, unless specified exceptions apply. The decision must be taken "in accordance with" any relevant policy statement. In practice this leads to a constrained decision making process. By contrast, if the decision is taken pursuant to section 105 of the Planning Act (i.e. broadly, the project goes through the DCO process but is

not an NSIP), the obligation is to "have regard" to any relevant national policy statement, plus a range of other considerations. This may seem rather legalistic, but in practice it can be very important. That is particularly where, as here, there are local policy designations which in the latter case (s.105) may well prove important and relevant issues (e.g. Metropolitan Open Land), but which would not have the same import if the decision is taken under s.104.

(d) On a related point, there is some acknowledgment of the relevant case law in paragraphs 1.5.1 and 1.5.2, but it assumes that there will be text in the applicable National Policy Statement (EN-1) which (when designated) would affect whether the development is assessed pursuant to section 104 or 105 of the Planning Act 2008. We would query whether ultimately that will be the case and, if such text is included, whether that would be true legal effect. This is again significant although perhaps it may appear a highly technical point: its potential utility is ramping up potential litigation risk for the project promoter. As has been noted, these seemingly legalistic points in this context are in practice very important.

(e) In terms of the operational life of the plant (section 2.7), a design life of 25 years is given, but the PEIR assumes a "reasonable worst case scenario" of 50 years. After that, there may be some "residual life" remaining and an investment decision would be made.

3. Assuming the availability of the DCO process, a decision on the project should be taken under Section 105 of the Planning Act 2008, as matters stand, and notwithstanding the formulation of EN-1 as ultimately designated.

4. The land is constrained, including by its Metropolitan Open Land designation, but there are also a range of nature conservation interests to take into account in addition. These tend to militate against the proposed project.

5. Re ecological/biodiversity effects – it is not clear (but seems to be the case) that the proposal includes development on land identified as an area for ecological mitigation for Riverside 2 (paragraph 7.6.10). This seems undesirable, because the project then needs to address that impact.

6. That there seems not to be a compelling case in the public interest for the compulsory acquisition of the two land interests (as required by Section 122(3) of the Planning Act 2008), not least because:

(i) There are alternative areas on which the development/construction compounds/ecological mitigation works could be delivered (and the

proposals look to develop habitat created as part of the Riverside 2 scheme, which is undesirable);

(ii) It is not clear whether there has been proper disaggregation of the elements of the proposed development in considering alternatives; and

(iii) As matters stand, there is no proper justification for permanent rather than temporary acquisition of our client's land, particularly given the availability of alternative layouts/disaggregation of the proposals.

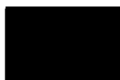
7. If my clients land is really required, it should be by way of a Lease for a defined period rather than by the acquisition of the freehold.

8. From information our clients surveyors hold from the Climate Council website it appears that a number of decarbonisation projects elsewhere have failed and the technology seems to be unreliable.

9. It would be appreciated if Cory could deal with the matter in future with rather more candour than they have in the past as full information does not appear to have been disclosed as early as it might have been.

Please acknowledge receipt of this letter.

Yours faithfully



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