

Cory Decarbonisation Project – Reference EN010128

Written submission on Examination Procedure on behalf of Landsul Limited and Munster Joinery (U.K.) Limited

Introduction

1. This written submission on the Examination Procedure is prepared on behalf of Landsul Limited (“Landsul”) whose unique interested party reference is CDCP-AFP013 and Munster Joinery (U.K.) Limited (“Munster Joinery”) whose unique interested party reference is CDCP-AFP017. Landsul is the owner, developer and manager of land at Norman Road, Belvedere. It is developed for industrial and warehousing purposes with offices and a display area. Part of the land is occupied by Munster Joinery, from where it operates a major distribution function for its UK operations.
2. The development consent order application seeks authority for the compulsory acquisition of Landsul’s land as part of the Cory Decarbonisation Project (the “Project”).
3. Landsul and Munster Joinery have submitted a relevant representation registering their objection to the Project. Its objection can be summarised as follows:
 - a. the acquisition of Landsul’s land is not necessary for the delivery of the Project;
 - b. the Applicant has failed to demonstrate that there are no alternatives to the compulsory acquisition of Landsul’s land;
 - c. the applicant has failed to properly assess the socioeconomic impacts resulting from the loss of the business run by Munster Joinery on Landsul’s land; and
 - d. the proposals would amount to an unlawful interference with Landsul’s rights under Article 1 of the First Protocol of the European Convention of Human Rights, and accordingly should not be approved.

Examination Procedure

4. Annex D of the Rule 6 letter dated 7 October 2024 and issued in respect of the Project contains the draft examination timetable.
5. Item 11 of Annex D provides for dates to be reserved during the week commencing 10 February 2025 for, amongst other hearings, Compulsory Acquisition Hearing 2 (if required).

6. We consider that Compulsory Acquisition Hearing 2 will be necessary in order to explore and examine whether the requirements of Section 122 of the Planning Act 2008 have been demonstrated in respect of the proposed compulsory acquisition of Landsul's land.
7. As set out in the relevant representations submitted on behalf of Landsul and Munster Joinery, an expert review of the indicative designs for the Project has been commissioned to consider whether the Project could be delivered without acquiring Landsul's land. Landsul and Munster Joinery have also commissioned an alternative site layout to demonstrate that the Project could be delivered without the need to compulsorily acquire Landsul's land.
8. The full expert's report and alternative site layout will be provided in Written Representations at Deadline 1 but in summary concludes that:
 - a. the Applicant's proposal makes a number of excessive assumptions and/or approaches which increase the required footprint of the site unnecessarily;
 - b. a number of the arguments put forward by the Applicant are inconsistent, lack robustness and potentially lead to incorrect conclusions; and
 - c. an alternative site layout occupying a smaller area and avoiding Landsul's land can be achieved whilst meeting the same design intent as the Applicant's proposal.
9. As a consequence, it will be Landsul and Munster Joinery's case that there is no need in engineering terms of its land, and accordingly that there is no compelling case in the public interest. If the Applicant maintains its position that the land is required, then this will necessitate a detailed examination of engineering design matters as part of the consideration of the case for compulsory acquisition.
10. In addition to an expert review of the indicative designs for the Project, Landsul and Munster Joinery have also commissioned an expert review of Chapter 14 Population, Health and Land Use, and Chapter 15 Socio-Economics of the Environmental Statement to consider whether a proper and comprehensive assessment of the socio-economic impacts that will arise from the loss of Munster Joinery's business, has been undertaken.
11. The findings of that expert review are that the socio-economic assessment undertaken by the Applicant within the Environmental Statement contain a number of flaws, over and above those summarised in the relevant representations submitted on behalf of Landsul and

Munster Joinery, which ultimately make the assessment of the socio-economic impacts on Munster Joinery's business invalid.

12. The contents of both of these expert reports will need to be considered and examined during a Compulsory Acquisition Hearing 2 and adequate time allocated to enable Landsul and Munster Joinery's experts to present their findings to the Examining Authority, and for testing the Applicant's case on these issues. Noting that the examination is primarily a written process and that there will be opportunity for an exchange of written submissions before CAH2, we consider that given the complexity of the issues raised one full hearing day should be allocated to the Landsul and Munster Joinery objection in CAH2.
13. In listing a CAH 2, we would ask that the week beginning 17 February 2024 be avoided due to this being half-term and the relevant expert and Counsel being unavailable during this week.
14. Whilst the necessity for cross examination may be affected by subsequent written exchanges, our preliminary view is that it is likely to be necessary for Landsul and Munster Joinery's Counsel to question the Applicant's experts and that a request to permit such questioning under s 94(4) Planning Act 2008 will be made by Landsul and Munster Joinery. The Examining Authority may wish to set a deadline for making such a request.
15. Finally, in terms of written exchanges, as noted above detailed expert reports will be filed at Deadline 1 on 26 November 2024. In accordance with the draft timetable, we would expect that the Applicant's detailed written response will be provided at Deadline 2 (13 December 2024) with Landsul and Munster Joinery being afforded the opportunity to reply at Deadline 3 (17 January 2025). We would suggest that Deadline 3 should also be set as the date by which the engineers should be directed to file a statement of common ground on engineering design matters, so that this is available in good time before CAH2.

Conclusion

16. Landsul and Munster Joinery remain firmly opposed to the acquisition of Landsul's land. Expert review indicates that the Project can be delivered without this land and that the compulsory acquisition, and socio-economic impacts arising from said acquisition, are not justified. These matters and the expert evidence that will be submitted as written representations will need to be considered and examined by the Examining Authority at a Compulsory Acquisition Hearing 2 to enable the Examining Authority to decide whether the

tests in Section 122 of the Planning Act 2008 have been met for the compulsory acquisition of Landsul's land. We would ask that one full day is allocated at the Compulsory Acquisition Hearing 2 for this purpose.

For and on behalf of Landsul and Munster Joinery

October 2024