

THE YORK POTASH HARBOUR FACILITIES ORDER 201X

Issues and Document Tracker



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ISSUES AND DOCUMENT TRACKER

PART 1:

RESPONSE TO ACCEPTANCE ISSUES

PINS Comments as set out in agenda for meeting on 21 January 2015	Applicant's Response
<p><u>The Draft Development Consent Order & its justification</u></p> <p>Whilst a certain degree of flexibility is acceptable, it is essential that the DCO needs to detail the proposed works to as sufficient a degree as to allow consideration. See DCLG Pre-Application Guidance particularly paragraphs 81 and 90:</p>	
<ul style="list-style-type: none"> The size, position and built form of all Works must be specifically defined in the DCO (particularly in the Schedule of works) and be sufficiently detailed to allow the Secretary of State to make an informed and balanced decision on the benefits of the project and its impacts. There must be a clear justification of the degree of flexibility sought; 	<p>See revised Schedule 1 of Draft DCO (Document 4.1), Parameters Table (Document 6.9) and Section 3 of the ES (Document 6.4).</p> <p>Justification for flexibility of options for form of quay and routes of conveyor contained in paragraph 10.2 of the Explanatory Memorandum (Document 4.2). .</p>
<ul style="list-style-type: none"> The size, position and built form of proposed major structures (e.g. a quay) need to be clearly specified with 	<p>See Parameters Table (Document 6.9), Works Plans (Documents 2.2A – F) and Article 4 of the draft DCO (Document 4.1).</p>

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justified limits of deviation;	
<ul style="list-style-type: none"> Detailed scale works plans and sections should be provided for all works and all proposed habitat enhancement works. 	See Doc Nos. 2.2 A-F, 3.2 – 3.12 and 3.14; Appendix 3.1 to HRA (Document 6.3).
<ul style="list-style-type: none"> Where there are a number of different forms of development ranging in type over non-contiguous areas, their location should be clearly identified on works plans and the works themselves (as opposed to the areas within which works may take place) should be limited by clear parameters in each dimension (maximum width, length and height) as set out in Advice Note 9 Rochdale Envelope; 	See Works Plans (Document 2.2A-F) and Parameters Table (Document 6.9).
<ul style="list-style-type: none"> Detailed parameters of temporary works also need to be provided; 	See Parameters Table (Document 6.9).
<ul style="list-style-type: none"> Where works are to be defined within parameters those parameters must be clearly defined and demonstrated to be reasonable and no greater than the minimum range required to deliver the application effectively; 	See Parameters Table (Document 6.9) and Explanatory Memorandum (Document 4.2).
<ul style="list-style-type: none"> The parameters of works given in the DCO must mirror the 	The Parameters Table (Document 6.9) is contained in section 3 of

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<p>parameters given in the Environmental Statement so that it can be clearly ascertained that impacts have been properly assessed;</p>	<p>the Environmental Statement (Document 6.4).</p>
<ul style="list-style-type: none"> The rationale for all land falling within Order Limits must be clearly ascertainable from the DCO and works plans; 	<p>See Works Plans (Document 2.2A-F) and Schedule 1 of the draft DCO (Document 4.1).</p>
<ul style="list-style-type: none"> Visual representation of all the proposed works would enable a more efficient examination of the application. 	<p>See montages in Landscape section of the Environmental Statement (Document 6.4); Conveyor cross sections (Documents 3.12A-F); Quay Cross sections and elevations (Documents 3.8B and 3.8C, 3.9B and 3.9C); Conveyor typologies (Document 3.10); Building and substation elevations (Documents 3.6A and 3.6B); General impression graphics in Appendix 5 of the Planning Statement (Document 7.1)</p>
<p><u>The Funding Statement</u></p> <p>DCLG Compulsory Acquisition guidance (particularly paras 9, 17 & 18) requires:</p>	<p>The revised Funding Statement was submitted in draft. The response to the latest draft indicated no outstanding areas of concern.</p>
<ul style="list-style-type: none"> Information about the resource implications of both acquiring the land and implementing the project; 	<p>See revised Funding Statement (Document 5.2).</p>

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<ul style="list-style-type: none"> • Indication of how any potential shortfalls are intended to be met; 	<p>See revised Funding Statement (Document 5.2).</p>
<ul style="list-style-type: none"> • Timing of the availability of the funding; 	<p>See revised Funding Statement (Document 5.2).</p>
<ul style="list-style-type: none"> • Demonstration that adequate funding is likely to be available to enable the compulsory acquisition within the statutory period. Thus this logically needs to include the assessed total contingent compulsory acquisition liability usually expressed in pounds sterling which should include provision for the implications of a possible acquisition resulting from a blight notice; 	<p>See revised Funding Statement (Document 5.2).</p>
<ul style="list-style-type: none"> • Clear idea of how intend to use the land which it is proposed to acquire; and 	<p>Please see table in Statement of Reasons (Document 5.1) (paragraph 3.14).</p>
<ul style="list-style-type: none"> • Reasonable prospect of the requisite funds for acquisition becoming available. 	<p>See revised Funding Statement (Document 5.2).</p>

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<p><u>The Statement of Reasons</u></p> <p>DCLG Compulsory Acquisition guidance (particularly paragraphs 8, 31-33):</p>	<p>The revised Statement of Reasons was submitted in draft. The response to the latest draft indicated no outstanding areas of concern.</p>
<ul style="list-style-type: none"> • Justify the <i>compulsory acquisition</i> sought of all <u>specific land and rights</u>; (not just delivery of the scheme as a whole). 	<p>Please see section 3 of the Statement of Reasons (Document 5.1); in particular please refer to the table after paragraph 3.14.</p>
<ul style="list-style-type: none"> • Set out compelling case in the public interest for it, including reasons for the creation of new rights; 	<p>Please see paras 4.8-4.35 of revised Statement of Reasons (Document 5.1).</p>
<ul style="list-style-type: none"> • Information on all reasonable alternatives to compulsory acquisition (including modifications to the scheme) having been explored; 	<p>Please see paras 4.40-4.49 of revised Statement of Reasons (Document 5.1).</p>
<ul style="list-style-type: none"> • The proposed interference must be for a legitimate purpose, necessary and proportionate; 	<p>Please see paras 4.36-4.39 of revised Statement of Reasons (Document 5.1).</p>
<ul style="list-style-type: none"> • Where plots or rights are outside the areas shown for the numbered Works; why are they sought in connection with 	<p>Please see revised Works Plans (Documents 2.2A-F) – all areas are within the numbered works. Please also note paragraph 3.11</p>

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<p>the proposed scheme?; and</p>	<p>and the description of rights in the table at paragraph 3.14 of the Statement of Reasons (Document 5.1) which describes only the relevant works proposed to be undertaken on that plot.</p>
<ul style="list-style-type: none"> Why are they the minimum necessary to achieve the delivery of the scheme? (Why is the whole of the work area sought, where works are only to occupy part of it?). 	<p>Please see revised Works Plans (Documents 2.2A-F) – all areas are within the numbered works. Please also note paragraph 3.11 and the description of rights in the table at paragraph 3.14 of the Statement of Reasons (Document 5.1) which describes only the relevant works proposed to be undertaken on that plot.</p>
<p><u>Plans</u></p> <p>The parameters of all Works as given in the ES must be secured by the DCO so as to clearly identify all works in three dimensions. This can be achieved by reference in the DCO to detailed Works Plans.</p>	<p>See revised Article 4 and Schedule 1 of Draft DCO (Document 4.1), Parameters Table (Document 6.9) and Section 3 of the Environmental Statement (Document 6.4).</p>
<p>Sections and three dimensional representations of each work should be provided</p>	<p>See montages in Landscape section of Environmental Statement (Document 6.4); Conveyor cross sections (Documents 3.12A-F); Quay Cross sections and elevations (Documents 3.8B and 3.8C, 3.9B and 3.9C); Conveyor typologies (Document 3.10); Building and substation elevations (Documents 3.6A and 3.6B); General impression graphics in Appendix 5 of the Planning Statement (Document 7.1)</p>

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<p><u>Consultation</u></p> <p>S42 consultation</p> <p>Is there justification for Scotland Gas Networks Plc and Southern Gas Networks Plc not having been consulted? (ie. address relevance test – or should be added for future notices?)</p>	<p>This was confirmed not to be an issue preventing acceptance.</p> <p>The list of consultees is a matter of judgment. Our full s42 consultee list was submitted to PINS with the draft consultation report and there was no suggestion that we should have included these additional parties.</p> <p>We will include them in any post acceptance processes.</p>
<p>S47 Consultation & SOCC</p> <p>Could be set out more clearly in Consultation Report how LPA's were consulted on the SOCC and what regard has been given by the applicant to comments from LPAs received on SOCC. PINS is satisfied that the applicant has had regard to responses.</p>	<p>This was confirmed not to be an issue preventing acceptance. It is noted that PINS is satisfied that the applicant had regard to responses.</p>
<p>Regulation 4(2) Notice</p> <p>PINS is of a view that the scheme has potential offshore impacts and notice should therefore be published in Lloyds List and fishing trade journal.</p>	<p>This was confirmed not to be an issue preventing acceptance.</p> <p>We do not view this as an "offshore development" (which is the test, not "potential offshore impacts") and therefore we did not publish it in Lloyds list or a fishing journal. PINS were aware that</p>

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	we took this view because it was clear from our draft consultation report that we were not consulting those parties. In commenting on our draft Consultation Report there was no suggestion that we were in error.
The applicant may wish to take the opportunity to discuss the HRA Report dated December 2014 with consultees such as Natural England prior to re-submission of the DCO application.	Please see revised Habitats Regulation Assessment (Document 6.3).

PART 2:

CHANGES TO DOCUMENTS SINCE DECEMBER 2014 SUBMISSION

Document Name and Number	Change (if any)
Application Form (Document 1.1)	A new application form accompanies the submission.
Letter to accompany application (Document 1.2)	A new covering letter accompanies the submission
Newspaper Notices Report (Document 1.3)	This is unchanged.
Document List (Document 1.4)	A new document list accompanies the application.
Applicant's s.55 Checklist (Document 1.5)	An updated s.55 checklist has been included with the submission. The changes reflect the changes to documentation in the submission.
Issues and Document Tracker (Document 1.6)	This is an additional document.
Land Plans (Documents 2.1 A-N)	These have been amended to reflect the revised Order limits and the extent of proposed compulsory acquisition/powers of temporary use.
Work Plans (Documents 2.2 A-F)	These have been amended to reflect the revised Order limits and the new works areas. No additional works are proposed.
Access and Rights of Way Plans (Documents 2.3 A-C)	These have been amended only to reflect the revised Order limits.
Plan series 3	These have been amended and some replaced: <ul style="list-style-type: none"> • To reflect the revised Order limits; • To provide additional detail of elements of the scheme; and

Document Name and Number	Change (if any)
	<ul style="list-style-type: none"> • Re-ordered for ease of reference
Draft Development Consent Order (including requirements) (Document 4.1)	This has been revised principally by revisions to Schedule 1 and Article 4 . In addition, it has now been agreed with PD Ports that the Applicant will not seek to obtain the status of harbour authority and accordingly provisions previously in square brackets have now been deleted.
Explanatory Memorandum (Document 4.2)	This has been updated.
Statement of Reasons (Document 5.1)	This has been updated – see Part 1 of this Document in particular.
Funding Statement (Document 5.2)	This has been updated – see Part 1 of this Document in particular.
Book of Reference (Document 5.3)	This has been updated to reflect the revised Order limits and the reduced extent of compulsory acquisition sought.
Consultation Report (Document 6.1)	This is unchanged.
Section 79(1) of Environmental Protection Act 1990 Statement (re statutory nuisance) (Document 6.2)	This has been revised to refer to the reduced order limits and cross references to the relevant sections in the Environmental Statement (Document 6.4)
Regulation 48 (European Site Statement (Reg 5(2)(g) Habitats Regulation Assessment Report (Document 6.3)	This has been revised to include reference to the agreed habitat enhancement works in the Lagoon.
Environmental Statement (Document 6.4)	This has been revised to reflect reduced order limits, incorporate additional and revised plans including lagoon habitat enhancement works.

Document Name and Number	Change (if any)
Appendices to Environmental Statement (Document 6.5)	This has been revised to reflect reduced order limits, incorporate additional and revised plans including lagoon habitat enhancement works.
Cumulative Impact Assessment (Document 6.6)	This has been revised to reflect reduced order limits, incorporate additional and revised plans including lagoon habitat enhancement works.
Non-Technical Summary (Document 6.7)	This has been revised to reflect reduced order limits and incorporate additional and revised plans including lagoon habitat enhancement works.
Governance Tracker (Document 6.8)	This has been revised to refer to lagoon habitat enhancement works.
Parameters Table (Document 6.9)	This is a new document.
Planning Statement (Document 7.1)	This has been revised to reflect reduced order limits and incorporate additional and revised plans including lagoon habitat enhancement works.
Summary of Proposals Document (Document 7.2)	This is unchanged.
Project Position Statement (Document 7.3)	This has been updated to reflect the current position on other applications relating to the York Potash Project.
Draft Development Consent Obligations – Heads of Terms (Document 7.4)	This has been updated to reflect the current position regarding the anticipated planning obligations.

Document Name and Number	Change (if any)
Letter from Secretary of State for Business, Innovation and Skills (Document 7.5)	This is unchanged.
The Crown Estate Consent Letter (Document 7.6)	This is unchanged.