



Ymddiriedolaeth Genedlaethol National Trust

HORIZON NUCLEAR POWER LIMITED DEVELOPMENT CONSENT ORDER

EN010007

RESPONSE BY NATIONAL TRUST

ISSUE: NATIONAL TRUST LAND

DEADLINE 2

Introduction

1. The National Trust's Relevant Representations state that, "to the extent that any land in which the Trust has an interest will be acquired", it objects. That remains the Trust's position.
2. The Trust has an interest in the following plots: Plot No. 61, Plot Nos. 63 to 65, and Plot Nos. 3 and 4. The Trust's position in respect of each is set out below.

Plot No. 61

3. Plot No. 61 is described in Part 1 of the Book of Reference as "334 sqm of watercourse south east of Felin Cafnan, Cemlyn, Cemaes Bay LL67 0DU" and the Trust is identified as the Category 1 owner of it. Plot No. 61 is land held inalienably by the Trust.
4. The application documents are inconsistent in their treatment of Plot No. 61. While the draft Development Consent Order ("dDCO") authorises its acquisition, other documents state it is not subject to acquisition.
5. For instance, article 25 of the dDCO states that the undertaker may "acquire compulsorily so much of the Order Land described in the Book of Reference and shown on the Land Plans as is required for the construction and

maintenance of the authorised development or to facilitate it, or as is incidental, to it".

6. Plot No. 61 is shown on the Land Plans.
7. Moreover, paragraph 6.1 of the Book of Reference states –

"…Part 5 [of the Book of Reference] specifies land (i) the acquisition of which is subject to special parliamentary procedure …"
8. Part 5 refers to Plot No. 61 and, under the heading Category of Land, states "special parliamentary procedure".
9. Section 130 of the Planning Act 2008 ("**the Act**"), states that for a DCO to be subject to special parliamentary procedure, it must authorise the compulsory acquisition of Trust land which is held inalienably.
10. Article 25 of the dDCO, Plot No. 61's presence in the Land Plans, and Part 5 of the Book of Reference suggest that Plot No. 61 is to be subject to acquisition.
11. However, in addition to the five usual classes of land, the Book of Reference includes "Class 6" which is described in paragraph 7.2.6 of the Book of Reference as "Land that is not subject to powers of acquisition (shown in grey on the land plans)". In Part 1 of the Book of Reference Plot No. 61 is, under "Interest / Right to be Acquired", described as "Class 6". Moreover, it is shown coloured grey in the inset of drawing number WN0902-HZDCO-LPN-DRG-0002 and the legend to that plan states that grey is "land not subject to powers of acquisition".
12. Part 1 of the Book of Reference and the drawing mentioned above suggest that Plot No. 61 is not to be subject to acquisition.
13. In an email dated 7 September 2018 to the Trust, Horizon stated that "[Plot No.61] is included in the book of reference because it was initially believed at

the consultation stage that the land was required and so has been included in the Order limits. However it is now no longer required and is described in the book of reference as Class 6 land which is land not subject to powers of acquisition". So, Plot 61 is not required by Horizon.

14. Section 122 of the Act provides that a DCO can only authorise compulsory acquisition if the Secretary of State is satisfied that:

- the land is required for the development to which the consent relates, or is required to facilitate, or is incidental to, the development, or is replacement land given in exchange under section 131 or 132, and
- there is a compelling case in the public interest for the compulsory acquisition.

15. None of these tests can be met in the instant case where the scheme's promoter has acknowledged that the land is not required for the project. Since the land is not needed and the section 122 cannot tests cannot be met, all references to the Trust's land which forms Plot No. 61 should be removed from the application documents.

16. Horizon state in the latest version of the Statement of Common Ground ("SOCG") that they intend to "remove Plot 61 from the Order Limits and submit a final Book of Reference and plans at Deadline 10". Since Deadline 10 is not until after the Compulsory Purchase hearing, the Trust will maintain its objection to the acquisition of its land forming Plot No. 61 until it has received a satisfactory assurance that the land in question will be removed from the application documents.

Plot Nos. 63 to 65

17. Plot Nos. 63 to Plot 65 are described in the Book of Reference as follows –

Plot No. 63: 16522 sqm of agricultural land to the east and south east of Felin Cafnan, Cemlyn, Cemaes Bay LL67 0DU.

Plot No. 64: 639676 sqm of agricultural land, woodland, scrub, buildings, car parks and access roads at Wylfa Power Station, Cemaes Bay (LL67 0DH).

Plot No. 65: 7560 sqm of agricultural land and cliff tops at Porth-y- Pistyll.

18. The Trust have the right to enter these plots in order to access the Mill at Felin Cafnan. Horizon propose to acquire all interests and rights in Plots 63 and 65 and to acquire certain subordinate rights as well. In addition, Horizon propose to extinguish all rights in Plot 64 and to acquire subordinate rights in that plot.

19. At a meeting which took place between the Trust and Horizon on 19 November 2018, Horizon stated they intend to provide the Trust with their own private right of access to the Mill and the right to use another means of access that will be provided. The Trust is currently awaiting draft Heads of Terms for the agreement which will formalise these proposals and it is hoped that this agreement will be completed well in advance of the Compulsory Purchase Hearing. To protect its position, the Trust continues to object to the acquisition of its rights in this land.

Plot Nos. 3 and 4

20. Plot Nos. 3 and 4 are described in the Book of Reference as follows –

Plot No. 3: 45021 sqm of agricultural land to the west and south west of Maen Y Bugail, Cemlyn, Cemaes Bay (LL67 0DU).

Plot No. 4: 85178 sqm of agricultural land to the east and north east of Maen Y Bugail, Cemlyn, Cemaes Bay (LL67 0DU).

21. Horizon propose to acquire all interests and rights in Plot Nos. 3 and 4.

22. Both plots are subject to the covenants under a Deed of Covenant dated 29 October 1992 (“**the Deed**”), which the Trust entered into with Mr John Cadwaladr Jones, who is identified in the Book of Reference as the Category 1 Owner of both plots of land.

23. Put simply, the Deed provides that nothing shall be done to or placed on the covenanted land which materially affects its existing appearance or is prejudicial to it, or affects the Trust land which is next to it, or the neighbourhood, or the Trust itself. This does not prevent the covenanted land from being used for agricultural purposes.

24. There are other things which cannot be done on the covenanted land without the Trust’s prior written permission including, but not limited to, building new buildings, altering buildings, felling trees, planting new trees which are different from the existing ones, and using it for camping or caravans or as a car park.

25. The Trust’s interest in the covenanted land is not referred to the Book of Reference and Horizon state in the SOCG that the Deed was not disclosed to it upon the due diligence checks it undertook and that it does not appear to be a registered interest on the title. The Trust are looking into these points. Horizon confirmed in an email to the Trust dated 16 October 2018, and at the meeting of 19 November 2018, that they will confirm their position in respect of the Trust’s interests in Plots 3 and 4 in due course. To protect its position, the Trust continues to object to the acquisition of its rights in this land.

Other land issues

26. While it is understood that the proposed Statutory Harbour Authority Boundary does not affect Trust land, Horizon acknowledged at the meeting of 19 November 2018 that drawing number WN0902-HZDCO-MRN-DRG-00034 was unclear in this regard, particularly in the location of point SHA001. Horizon have undertaken to provide a revised version of that drawing to the

Trust which shows more clearly the location of SHA001 and the whole of the Order Limits. This is going to be accompanied by a statement which confirms the relationship between the Order Limits and Trust land. In the unlikely event that land within which the Trust has an interest is affected by the Harbour Authority Boundary, the Trust objects.