



NEGOTIATIONS WITH LANDOWNERS

**ORSTED HORNSEA PROJECT THREE (UK) LIMITED (FERRY ROAD, HARTLEPOOL)
COMPULSORY PURCHASE ORDER 2023**

STATEMENT OF EVIDENCE

**Helen Gray MRICS
Senior Land & Property Manager
Orsted UK Land & Property**

1. QUALIFICATIONS AND EXPERIENCE

- 1.1 I am Helen Gray, Senior Land and Property Manager for Orsted in the UK.
- 1.2 I have a BSc (Hons) degree in Rural Enterprise and Land Management and have been a full member of the Royal Institution of Chartered Surveyors for 16 years.
- 1.3 I have worked in land and property management for over 20 years and have been working in the renewables industry for 14 of those years. My work in the renewables industry has mainly involved land assembly including negotiations to secure land and land rights for onshore and offshore windfarms, lease and stakeholder management during construction projects and managing land for operational windfarm and hydro projects including land secured for environmental compensation work.

2. SCOPE OF EVIDENCE

- 2.1 I have been leading the land and property support for the Hornsea Three compensation measures since November 2022 and have been involved in the Site at Hartlepool (as defined in the CPO) since March 2023.
- 2.2 My scope of evidence is limited to the discussions and correspondence I have had with PD Teesport Limited (“**PD Ports**”) since April 2023 relating to the access rights to the Site. The Statement of Evidence of Ian McKenna, who was involved in the project prior to that date, deals with the discussions and correspondence with PD Ports prior to November 2022.

3. APPROACH TO VOLUNTARY NEGOTIATIONS

- 3.1 When I joined the project in November 2022 the Site was going through the planning appeal process and so any discussions with PD Ports had been paused. The approach to voluntary negotiations up to the point of my joining the project are detailed in the Statement of Evidence of Ian McKenna.
- 3.2 Following planning permission (APP/H0724/W/22/3309272) for the Site being granted on appeal in March 2023, I contacted PD Ports in April 2023 to update them and asked for a call and/or in person meeting to discuss our plans and to ascertain their current thoughts on reaching a voluntary agreement on the access rights, particularly in light of the change in the status of planning permission for the Site.
- 3.3 This initial contact was followed up with a suggestion that a revised formal offer could be put to PD Ports. A response was received from PD Ports agreeing that an in-person meeting would be useful and requesting suitable dates. The revised formal offer was not sent at this stage as PD Ports’ representative confirmed they were about to go on leave for 2 weeks and it was implied that an in-person meeting would take place shortly after their return. They did not acknowledge the suggestion to issue a revised formal offer so I made the judgement to hold off issuing the formal offer at that time as I felt it would be more useful to wait until the in-person discussions had taken place.
- 3.4 Paragraph 7.2 of the Statement of Reasons sets out full details of correspondence with PD Ports. In summary, I provided suitable dates for a meeting in an email to PD Ports on 4th May 2023, however received no response, and I continued to chase a response frequently from PD Ports until the middle of June 2023.

- 3.5 On the 19th June 2023, having received no further contact from PD Ports since the 4th May 2023, I sent a formal offer of a commercial settlement for the rights the Acquiring Authority were seeking, along with a deadline for acceptance of the offer.
- 3.6 On 30th June 2023, I received confirmation from PD Ports that an in person meeting on 26th July 2023 would work for them, to which I agreed even though it was past the deadline for acceptance of the commercial offer. They did not make any reference or response to the commercial offer sent to them on the 19th June 2023.
- 3.7 On 26th July 2023 a meeting took place at PD Ports' offices in Middlesbrough. The meeting was amicable but the representative for PD Ports made it very clear that they were not prepared to reach a voluntary agreement under any circumstance and were not willing to discuss the matter any further. The representative for PD Ports was asked at the meeting whether it would make any difference if the Acquiring Authority offered to re-route, at their own cost, the existing access around the edge of PD Ports' operational estate, to which PD Ports responded that it would not make any difference to their decision.
- 3.8 PD Ports issued a letter to the Acquiring Authority dated 23rd August 2023, confirming their position at the meeting. See attached schedule at Appendix 1.
- 3.9 No further negotiations have taken place since the meeting on 26th July 2023 when PD Ports made it clear they were not willing to reach a voluntary agreement under any circumstance and were not willing to discuss the matter any further. Should that position change, the Acquiring Authority would welcome further negotiations.
- 3.10 The Acquiring Authority has sought acquisition of the rights over the Order Land by negotiation and agreement and remains open and willing to engage in such discussions with PD Ports.
- 3.11 Since September 2023, there has however been further email correspondence with PD Ports. See attached schedule at Appendix 2 detailing the correspondence.

4. JUSTIFICATION FOR USE OF COMPULSORY ACQUISITION POWERS BASED ON STATUS OF NEGOTIATIONS

- 4.1 In the Statement of Evidence of Ian McKenna, he details the work that was put into identifying the evidence to support what is believed to be an existing right of way to the Site, and also the reasons why alternative access options are not feasible. Efforts to evidence an existing right of way are, in light of PD Ports' position, unlikely to be resolved without litigation.
- 4.2 Paragraph 6 of the Statement of Case of the Acquiring Authority details the need for the scheme proposed and paragraphs 3.2 and 6.3 in particular detail the urgency to complete the ANS Works in time to allow for the commissioning of Hornsea Three in 2027.
- 4.3 Section 7 of the Statement of Case details the work that the Acquiring Authority has undertaken in an effort to acquire the rights over the Order Land by negotiation and agreement. However, to date, the Acquiring Authority has not been able to reach agreement with PD Ports.
- 4.4 In the meeting held between PD Ports and the Acquiring Authority on 26th July 2023, PD Ports made it clear that they were not willing to enter into negotiations for the voluntary acquisition of the rights under any circumstances. This point was reiterated in their follow up letter to the Acquiring Authority dated 23rd August 2023.

- 4.5 Since it has become clear that PD Ports is not willing to enter into any further discussions or negotiations for the voluntary acquisition of the rights required, and that they dispute the existence of a right of way, it is therefore necessary to proceed with the use of compulsory acquisition powers in order to obtain the necessary rights.

5. RESPONSE TO OBJECTIONS TO THE ORDER RELATING TO VOLUNTARY NEGOTIATIONS

- 5.1 There are two outstanding objections to the Order from the following parties:
- PD Ports
 - The Royal National Lifeboat Institution (“RNLI”).
- 5.2 The response to the objection from PD Ports is laid out in Table (i) at paragraph 12.5 of the Acquiring Authority’s Statement of Case. No further voluntary negotiations have taken place since the Acquiring Authority’s meeting with PD Ports on 26th July 2023 when PD Ports made it clear they were not willing to enter into any further discussions or negotiations on the matter.
- 5.3 On receipt of the objection from the RNLI, I made contact with their agents on 14th August 2023 to suggest a meeting to discuss their client’s concerns. An MS Teams meeting was arranged for 16th October 2023 attended by the Orsted’s Senior Lead Legal Counsel, Avison Young (RNLI’s agents), the RNLI Senior Property Counsel and myself.
- 5.4 The meeting with the RNLI was amicable and productive and we reassured the RNLI that their ability to access and operate the lifeboat station at Hartlepool would be unaffected by the Rights sought by the Acquiring Authority under the Order. I agreed, following the meeting, to gather and send on some additional information on our proposal for the Site, details of likely construction traffic movements and ongoing traffic movement during operation of the Site. This information was compiled in a letter which was sent to Avison Young by email on 6th December 2023.
- 5.5 During the meeting with the RNLI we also discussed the fact that Ferry Road had been physically blocked with concrete barriers by PD Ports earlier in the year and that the RNLI are now forced to access the lifeboat station via a different route that takes them through a security checkpoint on another part of PD Ports’ land. The RNLI were clear that this different access route was not practical for them, and it remained an ongoing risk to their work as an emergency service and they were keen to resume access via Ferry Road, however they did not place any blame on the Acquiring Authority.
- 5.6 The Acquiring Authority remains keen to liaise and work with the RNLI going forward so that any future concerns can be addressed quickly and the RNLI is kept informed of any future works relating to the Order and the Acquiring Authority’s future use of the Site.

6. FUNDING POSITION OF HORNSEA THREE PROJECT

- 6.1 Section 9 of the Statement of Case provides detail of the overall source of funding for the Hornsea Three project. The Acquiring Authority is registered in England and is a wholly owned subsidiary of Orsted Power (UK) Limited (“OPUK”). OPUK is an indirect and wholly owned subsidiary of Orsted A/S and is a holding company for a number of Orsted entities that construct and operate offshore wind farms in the UK including, but not limited to, those in the Hornsea zone.
- 6.2 The Acquiring Authority is a special purpose vehicle established for the purpose of developing, constructing and owning the Hornsea Three offshore wind project. During the project development phase, the Acquiring Authority is funded by the Orsted Group, in accordance with the Group

Financing Strategy, on the basis of a rolling budget looking ahead to anticipated expenditure. This implies that the Acquiring Authority will finance the construction costs entirely via equity capital and shareholder loans from its shareholders, to the extent that no partners are onboarded.

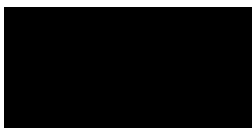
- 6.3 The Orsted group, through OPUK and to the extent required, Orsted A/S, will typically directly back the Acquiring Authority during the construction period by providing parent company guarantee to the project supplies and are responsible for all financial liabilities for the Acquiring Authority. The company governance and structure of all Orsted entities ensures strict control of liabilities and decisions through established Steering Committees and Company Directors. As the holding company, OPUK, delivers the mandate on behalf of Acquiring Authority for the release of funds and guarantees the financial requirement for delivery of the project.
- 6.4 The Hornsea Three project has now implemented the DCO granted in December 2020 and took entry to the onshore cabling route in May 2023 to start works for the installation of the onshore transmission cables and construction of the onshore converter station. Installation of the onshore cable ducting along the cable route has started and works are currently ongoing.
- 6.5 Land for the onshore substation site was purchased in November 2022 and work is currently at the civils stage to begin construction of the onshore substation in due course.
- 6.6 Purchase Orders have been placed for the transmission cabling and jack up vessels, showing a strong commitment to the build out of the project. Further, Orsted made its Final Investment Decision on 20 December 2023 to proceed with Hornsea Three, demonstrating its continued financial commitment to the project.

7. CONCLUSION

- 7.1 In my view, the new rights set out in the Order are required to facilitate the construction, use, monitoring and maintenance of the ANS on the Site and are no more than are reasonably necessary.
- 7.2 The Acquiring Authority has provided extensive information and reassurance to PD Ports to support the view that the granting of the rights will not result in any serious detriment to the carrying on of PD Ports' undertaking.
- 7.3 The Acquiring Authority has sought to reach a voluntary agreement with PD Ports on generous commercial terms and continues open to negotiations.
- 7.4 The Acquiring Authority has been in discussions with other users of the access along Ferry Road and believes they have provided sufficient reassurance that the grant of the new rights will not interfere with other users' activities and their use of the access along Ferry Road.

8. STATEMENT OF TRUTH

- 8.1 This statement of evidence has been prepared and provided for this inquiry by me and I confirm that the statements and opinions expressed are my true and professional opinions.



Helen Gray
9 January 2023



APPENDIX 1

PD Ports' letter to the Acquiring Authority dated 23rd August 2023



PD Teesport Limited
17-27 Queen's Square,
Middlesbrough, TS2 1AH
+44 (0) 1642 877000

Our ref: HD.15b
Your ref: HSG/AVIS

23rd August 2023

Helen Gray
Senior Land & Property Manager
Orsted
5 Howick Place
Westminster
London
SW1P 1WG

Dear Helen

**Orsted Hornsea Project Three (UK) Limited
Access to The Old Yacht Club**

I refer to your letter dated 19 June 2023 and our meeting held at PD Ports offices at Queens Square on 26 July 2023.

Thank you for meeting us at our offices, I trust you found it useful to fill in the gaps of your knowledge.

As we discussed, Orsted was made aware there were no rights of access over PD Teesport's private land months prior to purchasing the property. It was also made clear that PD Teesport did not consider the proposed Artificial Nesting Structure (ANS) development an appropriate use of the land neighbouring our Dock Estate and that PD Teesport would not be granting access through our Estate for such purposes.

It appears that your colleagues chose to ignore the above when making the decision to progress with the acquisition.

Noting that neither you or your colleagues in the Land and Property Team at Orsted were included in the purchase of the yacht club building, I have attached a copy of the Title details when Mr and Mrs Stokle bought the property for £45,000 and the details when Orsted paid £250,000. You will note both refer to the property as being sold "together with the benefit of such right of way as the Transferor has over the access road between Ferry Road, Hartlepool and the property." You will appreciate this form of wording is used in Land Registry documents when there is no clear access.

It seems clear that Orsted has entered into a bad property deal and overpaid for a property without access.

As again confirmed in our meeting, the property has never had rights of access other than when PD Teesport has chosen to permit such access and for the avoidance of doubt, we would reiterate that:

- 1) The adjoining land referred to above is land owned by PD Teesport Limited.

www.pdports.co.uk

- 2) No rights of access exist over the PD Teesport land. Where PD Teesport has chosen to permit access on our land it has been with the express consent of PD Teesport, whilst in addition there are annual Closure Orders managed by the Harbour Police.

You requested in our meeting that we respond to your letter and we can confirm, as we made clear in our meeting and have repeatedly advised, PD Teesport has no intention of permitting access across our private land.

Yours sincerely



Catey Oliver
Estates Surveyor

T: 01642 877134

E: catey.oliver@pdports.co.uk



APPENDIX 2

Email correspondence with PD Ports since September 2023

Toby Yeates

From: Catey Oliver <catey.oliver@pdports.co.uk>
Sent: 07 September 2023 17:30
To: Ian Mckenna; Helen Gray
Cc: Michael McConnell
Subject: Freedom of Information request - Request for information relating to alternative kittiwake mitigation sites for Hornsea Windfarms

Follow Up Flag: Follow up
Flag Status: Flagged

Good afternoon

It is noted that you are claiming powers under the Electricity Act 1989 in respect of the proposed CPO in respect of the land at Ferry Road, Hartlepool. As such, I understand that Electricity Act powers bring with them a duty under the Freedom of Information Act.

I would be grateful if, under the terms of the Freedom of Information Act 2000 or other appropriate and applicable FOI legislation for your organisation, you would provide me with the following information within the statutory period.

1. Full details of all the potential on shore and off shore artificial nesting structure sites you have considered as part of Orsted Hornsea Three
2. Full details of all the potential on shore and off shore artificial nesting structure sites you have considered as an alternative to the former Yacht Club site at Hartlepool as part of Orsted Hornsea Three
3. Full details of all the potential on shore and off shore artificial nesting structure sites currently under consideration as part of Orsted Hornsea Four
4. Full reasoning for you not progressing with and/or dismissing potential alternative on shore and off shore artificial nesting structure sites.

I look forward to receiving the above information in line with the statutory timeline of 20 working days (i.e. by 6th October 2023).

Many thanks and best regards

Catey



Catey Oliver
Estates Surveyor

17-27 Queens Square, Middlesbrough, TS2 1AH
Tel: +44 1642 87 7134
Mob: +44 7483 378 705
catey.oliver@pdports.co.uk | www.pdports.co.uk
Twitter: [@pdports](https://twitter.com/pdports)



Toby Yeates

From: Helen Gray <HELGR@orsted.com>
Sent: 05 October 2023 20:31
To: Catey Oliver
Cc: Michael McConnell; Francesca De Vita
Subject: RE: Freedom of Information request - Request for information relating to alternative kittiwake mitigation sites for Hornsea Windfarms
Attachments: Hornsea Three - Summary of Site Selection Process for ANS(143168321.2).pdf

Dear Catey

Thank you for your email below.

I am dealing with your request for information under the terms of the Environmental Information Regulations 2004 ("the Regulations") which may be found using the following link:
<https://www.legislation.gov.uk/ukxi/2004/3391/contents>.

This is because the information requested falls within the definition of "environmental information" in the Regulations. The Regulations are applicable to Electricity Act 1989 licence holders where their licence authorises the use of compulsory purchase powers under the Electricity Act 1989.

I can confirm that we do hold some information which is relevant to your request, however, we have decided that the information which you have requested cannot be disclosed for the reasons set out below.

Request for information from Orsted Hornsea Project Three (UK) Limited:

The following information which is relevant to items 1 and 2 your request is being withheld:

- Communications including emails, notes of calls, meeting agendas and notes of meetings;
- Slides for powerpoint presentations; and
- Draft reports and plans.

This information falls under one or more of the following exceptions:

- Regulation 12(4)(d) because it is material in the course of completion.
- Regulation 12(4)(e) because it is internal communications.
- Regulation 12(5)(d) because it is confidential information which constitutes legal advice provided to Orsted in connection with the Hornsea Three Offshore Wind Farm.
- Regulation 12(5)(e) because it is confidential commercial information and such confidentiality is provided by law to protect a legitimate economic interest.

Orsted has considered whether there is a public interest in disclosing this information, taking into account the presumption in favour of disclosure, promoting transparency and more effective public participation in environmental decision-making. However, in this case we believe that there may be legitimate harm to Orsted's economic interests in disclosing the information which outweighs the public interest in disclosure. The disclosure of the information would also have a negative effect on Orsted's internal deliberation and decision-making processes. Additionally, Orsted believes the legal privilege attached to this confidential information outweighs the public interest in disclosing it.

As part of our consideration of the public interest test, we have summarised some of the information held relating to site selection process in the attached document. Where information referred to in the attached document is already in the public domain, links have been provided.

It should be noted that information submitted as part of the planning application and subsequent planning appeal for the artificial nesting structures is already in the public domain and can be found on Hartlepool Council's website using application reference H/2022/0009:

<http://eforms.hartlepool.gov.uk/portal/servlets/ApplicationSearchServlet>

Request for information from Orsted Hornsea Project Four Limited:

The following information which is relevant to items 3 and 4 in your request is being withheld:

- Communications including emails, notes of calls, meeting agendas and notes of meetings;
- Slides for powerpoint presentations; and
- Draft reports and plans.

This information falls under one or more of the following exceptions:

- Regulation 12(4)(d) because it is material in the course of completion.
- Regulation 12(4)(e) because it is internal communications.
- Regulation 12(5)(d) because it is confidential information which constitutes legal advice provided to Orsted in connection with the Hornsea Four Offshore Wind Farm.
- Regulation 12(5)(e) because it is confidential commercial information and such confidentiality is provided by law to protect a legitimate economic interest.

Orsted has considered whether there is a public interest in disclosing this information, taking into account the presumption in favour of disclosure, promoting transparency and more effective public participation in environmental decision-making. However, in this case we believe that there may be legitimate harm to Orsted's economic interests in disclosing the information which outweighs the public interest in disclosure. Additionally, Orsted believes the legal privilege attached to this confidential information outweighs the public interest in disclosing it.

Hornsea Four is at a very early stage in exploring potential locations for onshore and offshore artificial nesting structures. Some information is already in the public domain and can be found at the links below:

Volume B2, Annex 7.5: Compensation measures for FFC SPA: Artificial Nesting: Site Selection and Design
[EN010098-000508-B2.7.5 RP Volume B2 Annex 7.5 Compensation measures for FFC SPA Artificial Nesting Site Selection and Design.pdf \(planninginspectorate.gov.uk\)](#)

Onshore only:

Deadline 6, G6.3, Kittiwake onshore artificial nesting structure site selection and evidence on nesting limitations update

[EN010098-001895-Hornsea Project Four - Other- G6.3 Kittiwake Onshore Artificial nesting Structure Site Selection and Evidence on Nesting Limitations update.pdf \(planninginspectorate.gov.uk\)](#)

If you are unhappy with the decisions made by us in relation to your request, you may ask for an internal review.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

<https://ico.org.uk/make-a-complaint/foi-and-eir-complaints/foi-and-eir-complaints/>

Best regards,

Helen Gray

Senior Land & Property Manager
UK Land & Property
Region Europe

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helgr@orsted.com



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United Kingdom

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From: Catey Oliver <catey.oliver@pdports.co.uk>

Sent: 07 September 2023 17:30

To: Ian Mckenna <IANMK@orsted.com>; Helen Gray <HELGR@orsted.com>
Cc: Michael McConnell <Michael.McConnell@pdports.co.uk>
Subject: Freedom of Information request - Request for information relating to alternative kittiwake mitigation sites for Hornsea Windfarms

Good afternoon

It is noted that you are claiming powers under the Electricity Act 1989 in respect of the proposed CPO in respect of the land at Ferry Road, Hartlepool. As such, I understand that Electricity Act powers bring with them a duty under the Freedom of Information Act.

I would be grateful if, under the terms of the Freedom of Information Act 2000 or other appropriate and applicable FOI legislation for your organisation, you would provide me with the following information within the statutory period.

1. Full details of all the potential on shore and off shore artificial nesting structure sites you have considered as part of Orsted Hornsea Three
2. Full details of all the potential on shore and off shore artificial nesting structure sites you have considered as an alternative to the former Yacht Club site at Hartlepool as part of Orsted Hornsea Three
3. Full details of all the potential on shore and off shore artificial nesting structure sites currently under consideration as part of Orsted Hornsea Four
4. Full reasoning for you not progressing with and/or dismissing potential alternative on shore and off shore artificial nesting structure sites.

I look forward to receiving the above information in line with the statutory timeline of 20 working days (i.e. by 6th October 2023).

Many thanks and best regards

Catey



Catey Oliver
Estates Surveyor

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Twitter: [@pdports](https://twitter.com/pdports)



Disclaimer

Toby Yeates

From: Michael McConnell <Michael.McConnell@pdports.co.uk>
Sent: 04 December 2023 15:11
To: Helen Gray; Catey Oliver
Cc: Francesca De Vita
Subject: RE: Freedom of Information request - Request for information relating to alternative kittiwake mitigation sites for Hornsea Windfarms

Dear Helen,

Thank you for copying me in on the below reply.

Unfortunately I have been involved in a major trial, the main hearing of which has run from 5th October to 10th November, with there also being other interim hearings and follow ups. Defending our position in that litigation has obviously proven to be a distraction from other matters.

We can now turn our attention to the hostile actions in respect of the proposed Orsted CPO.

You will be aware the requests for information submitted some time ago were seeking:-

1. Full details of all the potential on shore and off shore artificial nesting structure sites you have considered as part of Orsted Hornsea Three
2. Full details of all the potential on shore and off shore artificial nesting structure sites you have considered as an alternative to the former Yacht Club site at Hartlepool as part of Orsted Hornsea Three
3. Full details of all the potential on shore and off shore artificial nesting structure sites currently under consideration as part of Orsted Hornsea Four
4. Full reasoning for you not progressing with and/or dismissing potential alternative on shore and off shore artificial nesting structure sites.

Notwithstanding the exemptions to which you claim to rely upon, and we will revert to you separately on those, you will be aware the requests were not limited to what you refer to as "backup" locations to the former Coastwatch site incorporating part our Port Estate, nor were they limited to onshore locations.

Please therefore provide the previously requested information for all potential on shore and offshore artificial nesting structure locations considered by Orsted in relation to Hornsea 3 and Hornsea 4.

This should be readily available at your end and so there should presumably be no reasonable reason why it is not provided within 7 days of the date hereof.

We look forward to receiving this information.

Yours sincerely,



Michael McConnell
Group Property Director

17-27 Queen's Square, Middlesbrough, Cleveland, TS2 1AH
Tel: +44 [0] 1642 87 7071 | Fax: +44 [0] 1642 87 7025
Mob: +44 [0] 7772 689816
michael.mcconnell@pdports.co.uk | www.pdports.co.uk
Twitter: [@pdports](https://twitter.com/pdports)

From: Helen Gray <HELGR@orsted.com>
Sent: Thursday, October 5, 2023 8:31 PM
To: Catey Oliver <catey.oliver@pdports.co.uk>
Cc: Michael McConnell <Michael.McConnell@pdports.co.uk>; Francesca De Vita <FRADV@orsted.com>
Subject: RE: Freedom of Information request - Request for information relating to alternative kittiwake mitigation sites for Hornsea Windfarms

This Message originated outside of PD Ports from Helen Gray <helgr@orsted.com>. Do not click any links or attachments unless you know the sender.

Dear Catey

Thank you for your email below.

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I can confirm that we do hold some information which is relevant to your request, however, we have decided that the information which you have requested cannot be disclosed for the reasons set out below.

Request for information from Orsted Hornsea Project Three (UK) Limited:

The following information which is relevant to items 1 and 2 your request is being withheld:

- Communications including emails, notes of calls, meeting agendas and notes of meetings;
- Slides for powerpoint presentations; and
- Draft reports and plans.

This information falls under one or more of the following exceptions:

- Regulation 12(4)(d) because it is material in the course of completion.

- Regulation 12(4)(e) because it is internal communications.
- Regulation 12(5)(d) because it is confidential information which constitutes legal advice provided to Orsted in connection with the Hornsea Three Offshore Wind Farm.
- Regulation 12(5)(e) because it is confidential commercial information and such confidentiality is provided by law to protect a legitimate economic interest.

Orsted has considered whether there is a public interest in disclosing this information, taking into account the presumption in favour of disclosure, promoting transparency and more effective public participation in environmental decision-making. However, in this case we believe that there may be legitimate harm to Orsted's economic interests in disclosing the information which outweighs the public interest in disclosure. The disclosure of the information would also have a negative effect on Orsted's internal deliberation and decision-making processes. Additionally, Orsted believes the legal privilege attached to this confidential information outweighs the public interest in disclosing it.

As part of our consideration of the public interest test, we have summarised some of the information held relating to site selection process in the attached document. Where information referred to in the attached document is already in the public domain, links have been provided.

It should be noted that information submitted as part of the planning application and subsequent planning appeal for the artificial nesting structures is already in the public domain and can be found on Hartlepool Council's website using application reference H/2022/0009:

<http://eforms.hartlepool.gov.uk/portal/servlets/ApplicationSearchServlet>

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- Regulation 12(4)(e) because it is internal communications.
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Onshore only:

Deadline 6, G6.3, Kittiwake onshore artificial nesting structure site selection and evidence on nesting limitations update

[EN010098-001895-Hornsea Project Four - Other- G6.3 Kittiwake Onshore Artificial nesting Structure Site Selection and Evidence on Nesting Limitations update.pdf \(planninginspectorate.gov.uk\)](#)

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If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

<https://ico.org.uk/make-a-complaint/foi-and-eir-complaints/foi-and-eir-complaints/>

Best regards,
Helen Gray
Senior Land & Property Manager
UK Land & Property
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From: Catey Oliver <catey.oliver@pdports.co.uk>
Sent: 07 September 2023 17:30
To: Ian Mckenna <IANMK@orsted.com>; Helen Gray <HELGR@orsted.com>
Cc: Michael McConnell <Michael.McConnell@pdports.co.uk>
Subject: Freedom of Information request - Request for information relating to alternative kittiwake mitigation sites for Hornsea Windfarms

Good afternoon

It is noted that you are claiming powers under the Electricity Act 1989 in respect of the proposed CPO in respect of the land at Ferry Road, Hartlepool. As such, I understand that Electricity Act powers bring with them a duty under the Freedom of Information Act.

I would be grateful if, under the terms of the Freedom of Information Act 2000 or other appropriate and applicable FOI legislation for your organisation, you would provide me with the following information within the statutory period.

1. Full details of all the potential on shore and off shore artificial nesting structure sites you have considered as part of Orsted Hornsea Three
2. Full details of all the potential on shore and off shore artificial nesting structure sites you have considered as an alternative to the former Yacht Club site at Hartlepool as part of Orsted Hornsea Three
3. Full details of all the potential on shore and off shore artificial nesting structure sites currently under consideration as part of Orsted Hornsea Four
4. Full reasoning for you not progressing with and/or dismissing potential alternative on shore and off shore artificial nesting structure sites.

I look forward to receiving the above information in line with the statutory timeline of 20 working days (i.e. by 6th October 2023).

Many thanks and best regards

Catey

Toby Yeates

From: Michael McConnell <Michael.McConnell@pdports.co.uk>
Sent: 04 December 2023 16:02
To: Helen Gray
Cc: Catey Oliver
Subject: FW: Port of Hartlepool and former Coastwatch building

Dear Helen,

In response to your reply to the request for information under the terms of the Environment Information Regulations 2004, following the previous refusal on the part of Orsted to provide such information, you provided a schedule of 10 "backup sites" which have been considered. Your response included a table outlining your criteria for selection.

In respect of the "Land and Property" element, the "Black (showstoppers to development)" were "The landowner has indicated that either 1) they do not wish to consider Artificial Nesting Sites (ANS) on their property; or 2) a specific feature that we have identified (e.g. a pier) is not available for Artificial Nesting sites".

The "Red" criteria "(significant level of constraints, low suitability of site)" were "The landowner has indicated that their entire property or a specific part we have identified would not be suitable for the provision of ANS due to their current or future use of the property. OR although suitable locations exist for ANS the landowner has not responded to date to discuss if they are willing to discuss the siting of ANS".

You are aware that long before Orsted opted to purchase the former Coastwatch building at Hartlepool, it was advised that PD Teesport, which owned the Operational Port land which you are now threatening by way of compulsion, did not support your proposed use of the Coastwatch building nor the use of our land for access for such purposes.

Access is integral to use, and since you are now claiming to use statutory acquisition powers for your site assembly requirements, this must surely mean by way of your own selection criteria, the Hartlepool Coastwatch building should have been ranked 'Black' rather than 'Green'.

Please therefore explain who was responsible for the 'Green' allocation, together with evidence as to both why when exactly the 'Green' allocation was applied? As you are now seeking to rely on compulsion to secure property rights, I trust you agree, that a "Green" allocation based upon your own criteria does not stand up to any level of scrutiny.

When we met on 26th July you advised the Land and Property Team was not involved in the acquisition of the Coastwatch building. How therefore could any such "Land and Property" assessment have been undertaken if the decision to acquire had, as you had advised, already been made by the Orsted Operations Team?

As we previously discussed, the property was previously acquired for £45,000 and yet Orsted purchased it for £250,000. This would support your advice that the Orsted Land and Property Team had not been involved at the time, with Orsted having paid considerably over the odds for a property which, as you are aware, did not have access through the Port.

'Green' under your adopted criteria is "The landowner has indicated they are willing to discuss the siting of an ANS on their property...".

The proposal involved more than on property interest, and your selection criteria clearly ignored ours. Quite clearly it is therefore flawed.

In addition, the offer and acceptance of £250,000 from the other owner cannot be viewed as anything more than the owner of a landlocked property, who was looking to sell in any event, receiving an offer considerably more than the property was worth. That cannot realistically be viewed as a “positive response from private landowner” to the proposed use by Orsted, but merely a case of that party taking the money from a party (Orsted) as it was willing to pay an excessive amount for a property with no access etc.

I should be grateful therefore to receive your full response to my questions within the next 7 days.

Yours sincerely,



Michael McConnell
Group Property Director

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In light of the challenges created by the Coronavirus (COVID-19) we want to assure you that we are doing everything we can to minimise the impact of the outbreak and to keep supply chains moving and the country supplied with essential goods that are needed in daily life. Our operations continue to run as normal. Follow our website www.pdports.co.uk and our social media channels via Twitter @PDPORPTS for regular updates.

Toby Yeates

From: Michael McConnell <Michael.McConnell@pdports.co.uk>
Sent: 06 December 2023 18:30
To: Helen Gray
Cc: Catey Oliver
Subject: Orsted and Port of Hartlepool

Dear Helen,

Would you kindly advise where exactly is the site at Redcar which Orsted had purportedly investigated ? would you please provide a plan?

Your table in your BRAG exercise states “Landowner open to discussion.....” Who was the Landowner?

You are aware that PD Teesport has always been opposed to the use of our land at the Port of Hartlepool for your suggested purposes. In comparison therefore the Redcar site should clearly be a preferred one to the Port of Hartlepool.

Why therefore have Orsted seemingly dismissed that site, but instead seek to force site assembly through compulsion at the Port of Hartlepool.

I look forward to your reply.

Yours sincerely,

Michael



Michael McConnell
Group Property Director

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Toby Yeates

From: Catey Oliver <catey.oliver@pdports.co.uk>
Sent: 07 December 2023 12:09
To: Helen Gray
Cc: Michael McConnell
Subject: Port of Hartlepool and former Coastwatch building

Dear Helen

Further to your reply to the request for information, I would be grateful if you can confirm whether or not Steetley Pier at Hartlepool was considered as a suitable location for the kittiwake mitigation?

Many thanks and I look forward to hearing from you.

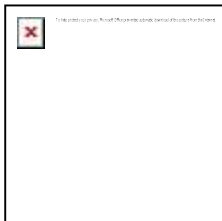
Best regards

Catey



Catey Oliver
Estates Surveyor

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Toby Yeates

From: Michael McConnell <Michael.McConnell@pdports.co.uk>
Sent: 12 December 2023 08:52
To: Helen Gray; Catey Oliver
Cc: Francesca De Vita; Catey Oliver
Subject: RE: Freedom of Information request - Request for information relating to alternative kittiwake mitigation sites for Hornsea Windfarms

Dear Helen,

I refer to my below e-mail, and note that I do not appear to have received the previously requested information.

I see no reason why this information is not being provided and trust you will provide it by return. You will no doubt be aware in *Brown v Secretary of State for the Environment (1978)* Forbes J stated that where other land was suitable for the purpose of a project "no reasonable Secretary of State faced with that fact could come to the conclusion that it was necessary for the authority to acquire other land compulsorily for precisely the same purpose".

Orsted claims to have dismissed other sites but is not disclosing which sites exactly it has dismissed. Why is that?

I look forward to a full response.

Yours sincerely,

Michael



Michael McConnell
Group Property Director

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Mob: +44 [0] 7772 689816
michael.mccconnell@pdports.co.uk | www.pdports.co.uk
Twitter: [@pdports](https://twitter.com/pdports)

From: Michael McConnell
Sent: Monday, December 4, 2023 3:11 PM
To: Helen Gray <HELGR@orsted.com>; Catey Oliver <catey.oliver@pdports.co.uk>
Cc: Francesca De Vita <FRADV@orsted.com>
Subject: RE: Freedom of Information request - Request for information relating to alternative kittiwake mitigation sites for Hornsea Windfarms

Dear Helen,

Thank you for copying me in on the below reply.

Unfortunately I have been involved in a major trial, the main hearing of which has run from 5th October to 10th November, with there also being other interim hearings and follow ups. Defending our position in that litigation has obviously proven to be a distraction from other matters.

We can now turn our attention to the hostile actions in respect of the proposed Orsted CPO.

You will be aware the requests for information submitted some time ago were seeking:-

1. Full details of all the potential on shore and off shore artificial nesting structure sites you have considered as part of Orsted Hornsea Three
2. Full details of all the potential on shore and off shore artificial nesting structure sites you have considered as an alternative to the former Yacht Club site at Hartlepool as part of Orsted Hornsea Three
3. Full details of all the potential on shore and off shore artificial nesting structure sites currently under consideration as part of Orsted Hornsea Four
4. Full reasoning for you not progressing with and/or dismissing potential alternative on shore and off shore artificial nesting structure sites.

Notwithstanding the exemptions to which you claim to rely upon, and we will revert to you separately on those, you will be aware the requests were not limited to what you refer to as "backup" locations to the former Coastwatch site incorporating part our Port Estate, nor were they limited to onshore locations.

Please therefore provide the previously requested information for all potential on shore and offshore artificial nesting structure locations considered by Orsted in relation to Hornsea 3 and Hornsea 4.

This should be readily available at your end and so there should presumably be no reasonable reason why it is not provided within 7 days of the date hereof.

We look forward to receiving this information.

Yours sincerely,



Michael McConnell
Group Property Director

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Mob: +44 [0] 7772 689816
michael.mcconnell@pdports.co.uk | www.pdports.co.uk
Twitter: [@pdports](https://twitter.com/pdports)

From: Helen Gray <HELGR@orsted.com>
Sent: Thursday, October 5, 2023 8:31 PM
To: Catey Oliver <catey.oliver@pdports.co.uk>
Cc: Michael McConnell <Michael.McConnell@pdports.co.uk>; Francesca De Vita <FRADV@orsted.com>
Subject: RE: Freedom of Information request - Request for information relating to alternative kittiwake mitigation sites for Hornsea Windfarms

This Message originated outside of PD Ports from Helen Gray <helgr@orsted.com>. Do not click any links or attachments unless you know the sender.

Dear Catey

Thank you for your email below.

I am dealing with your request for information under the terms of the Environmental Information Regulations 2004 ("the Regulations") which may be found using the following link:
<https://www.legislation.gov.uk/ukxi/2004/3391/contents>.

This is because the information requested falls within the definition of "environmental information" in the Regulations. The Regulations are applicable to Electricity Act 1989 licence holders where their licence authorises the use of compulsory purchase powers under the Electricity Act 1989.

I can confirm that we do hold some information which is relevant to your request, however, we have decided that the information which you have requested cannot be disclosed for the reasons set out below.

Request for information from Orsted Hornsea Project Three (UK) Limited:

The following information which is relevant to items 1 and 2 your request is being withheld:

- Communications including emails, notes of calls, meeting agendas and notes of meetings;
- Slides for powerpoint presentations; and
- Draft reports and plans.

This information falls under one or more of the following exceptions:

- Regulation 12(4)(d) because it is material in the course of completion.
- Regulation 12(4)(e) because it is internal communications.
- Regulation 12(5)(d) because it is confidential information which constitutes legal advice provided to Orsted in connection with the Hornsea Three Offshore Wind Farm.
- Regulation 12(5)(e) because it is confidential commercial information and such confidentiality is provided by law to protect a legitimate economic interest.

Orsted has considered whether there is a public interest in disclosing this information, taking into account the presumption in favour of disclosure, promoting transparency and more effective public participation in environmental decision-making. However, in this case we believe that there may be legitimate harm to Orsted's economic interests in disclosing the information which outweighs the public interest in disclosure. The disclosure of the information would also have a negative effect on Orsted's internal deliberation and decision-making processes. Additionally, Orsted believes the legal privilege attached to this confidential information outweighs the public interest in disclosing it.

As part of our consideration of the public interest test, we have summarised some of the information held relating to site selection process in the attached document. Where information referred to in the attached document is already in the public domain, links have been provided.

It should be noted that information submitted as part of the planning application and subsequent planning appeal for the artificial nesting structures is already in the public domain and can be found on Hartlepool Council's website using application reference H/2022/0009:

<http://eforms.hartlepool.gov.uk/portal/servlets/ApplicationSearchServlet>

Request for information from Orsted Hornsea Project Four Limited:

The following information which is relevant to items 3 and 4 in your request is being withheld:

- Communications including emails, notes of calls, meeting agendas and notes of meetings;
- Slides for powerpoint presentations; and
- Draft reports and plans.

This information falls under one or more of the following exceptions:

- Regulation 12(4)(d) because it is material in the course of completion.
- Regulation 12(4)(e) because it is internal communications.
- Regulation 12(5)(d) because it is confidential information which constitutes legal advice provided to Orsted in connection with the Hornsea Four Offshore Wind Farm.
- Regulation 12(5)(e) because it is confidential commercial information and such confidentiality is provided by law to protect a legitimate economic interest.

Orsted has considered whether there is a public interest in disclosing this information, taking into account the presumption in favour of disclosure, promoting transparency and more effective public participation in environmental decision-making. However, in this case we believe that there may be legitimate harm to Orsted's economic interests in disclosing the information which outweighs the public interest in disclosure. Additionally, Orsted believes the legal privilege attached to this confidential information outweighs the public interest in disclosing it.

Hornsea Four is at a very early stage in exploring potential locations for onshore and offshore artificial nesting structures. Some information is already in the public domain and can be found at the links below:

Volume B2, Annex 7.5: Compensation measures for FFC SPA: Artificial Nesting: Site Selection and Design
[EN010098-000508-B2.7.5 RP Volume B2 Annex 7.5 Compensation measures for FFC SPA Artificial Nesting Site Selection and Design.pdf \(planninginspectorate.gov.uk\)](#)

Onshore only:

Deadline 6, G6.3, Kittiwake onshore artificial nesting structure site selection and evidence on nesting limitations update

[EN010098-001895-Hornsea Project Four - Other- G6.3 Kittiwake Onshore Artificial nesting Structure Site Selection and Evidence on Nesting Limitations update.pdf \(planninginspectorate.gov.uk\)](#)

If you are unhappy with the decisions made by us in relation to your request, you may ask for an internal review.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

<https://ico.org.uk/make-a-complaint/foi-and-eir-complaints/foi-and-eir-complaints/>

Best regards,
Helen Gray
Senior Land & Property Manager
UK Land & Property
Region Europe

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helgr@orsted.com



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From: Catey Oliver <catey.oliver@pdports.co.uk>

Sent: 07 September 2023 17:30

To: Ian Mckenna <IANMK@orsted.com>; Helen Gray <HELGR@orsted.com>

Cc: Michael McConnell <Michael.McConnell@pdports.co.uk>

Subject: Freedom of Information request - Request for information relating to alternative kittiwake mitigation sites for Hornsea Windfarms

Good afternoon

It is noted that you are claiming powers under the Electricity Act 1989 in respect of the proposed CPO in respect of the land at Ferry Road, Hartlepool. As such, I understand that Electricity Act powers bring with them a duty under the Freedom of Information Act.

I would be grateful if, under the terms of the Freedom of Information Act 2000 or other appropriate and applicable FOI legislation for your organisation, you would provide me with the following information within the statutory period.

1. Full details of all the potential on shore and off shore artificial nesting structure sites you have considered as part of Orsted Hornsea Three
2. Full details of all the potential on shore and off shore artificial nesting structure sites you have considered as an alternative to the former Yacht Club site at Hartlepool as part of Orsted Hornsea Three
3. Full details of all the potential on shore and off shore artificial nesting structure sites currently under consideration as part of Orsted Hornsea Four
4. Full reasoning for you not progressing with and/or dismissing potential alternative on shore and off shore artificial nesting structure sites.

I look forward to receiving the above information in line with the statutory timeline of 20 working days (i.e. by 6th October 2023).

Many thanks and best regards

Catey



Catey Oliver

Estates Surveyor

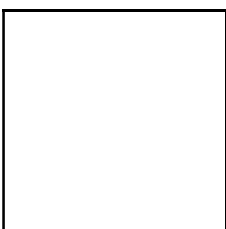
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Toby Yeates

From: Catey Oliver <catey.oliver@pdports.co.uk>
Sent: 12 December 2023 16:50
To: Helen Gray
Cc: Michael McConnell
Subject: Port of Hartlepool and former Coastwatch building

Good afternoon Helen

Further to your reply to the request for information, I understand the land we proposed at North Gare (the old sand yard) was discounted. It is not clear if this area is included within Table 2 you have provided; please can you confirm? In addition, I would be grateful if you can provide full details as to why this was not considered appropriate.

Many thanks

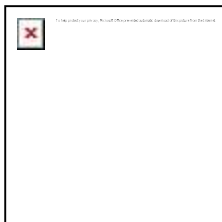
Best regards

Catey



Catey Oliver
Estates Surveyor

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Toby Yeates

From: Catey Oliver <catey.oliver@pdports.co.uk>
Sent: 13 December 2023 16:16
To: Helen Gray
Subject: Port of Hartlepool and former Coastwatch building

Afternoon Helen

Further to your reply to the request for information, we note from Table 2 of the information you have provided that a reason for a 'Black' (showstopper) result is due to the area being located within a Site of Scientific Interest (SSSI).

As you are aware the subject site at Hartlepool is immediately adjacent to a SSSI and we would be interested to understand why this area was still considered suitable.

Many thanks and I look forward to hearing from you.

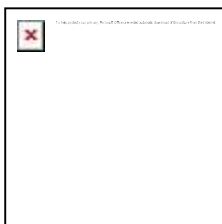
Best regards

Catey



Catey Oliver
Estates Surveyor

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Toby Yeates

From: Catey Oliver <catey.oliver@pdports.co.uk>
Sent: 14 December 2023 15:23
To: Helen Gray
Subject: Port of Hartlepool and former Coastwatch building

Afternoon Helen

Further to your reply to the request for information, we note from Table 2 of the information you have provided that a reason for a 'Black' (showstopper) result is due to potential concerns of interactions with Special Protected Areas (SPAs).

As you are aware the subject site at Hartlepool is within close proximity to the Teesmouth and Cleveland Coast SPA and we would be interested to understand why this area was still considered suitable.

Many thanks and I look forward to hearing from you.

Best regards

Catey



Catey Oliver
Estates Surveyor

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Toby Yeates

From: Helen Gray <HELGR@orsted.com>
Sent: 15 December 2023 15:11
To: Michael McConnell; Catey Oliver
Cc: Francesca De Vita
Subject: PD Ports - Request for information relating to alternative kittiwake mitigation sites for Hornsea Windfarms

Good afternoon Michael and Catey

My apologies for the delay in replying - unfortunately I have had other commitments recently and so was unable to respond before now.

In order to simplify things, I will respond to all queries raised in the emails you have both sent me over the past week or so in one email, as follows.

- **Email dated 04/12/23 - subject “RE: Freedom of Information request - Request for information relating to alternative kittiwake mitigation sites for Hornsea Windfarms”**
 - You have asked that we “provide the previously requested information for all potential onshore and offshore artificial nesting structure locations considered by Orsted in relation to Hornsea 3 and Hornsea 4”.
 - In answer to this, we have already provided the information requested for all potential onshore and offshore Artificial Nesting Structure (ANS) locations considered by Orsted in relation to Hornsea 3 and Hornsea 4. The final list provided was a full comprehensive list that included “back-up” options as part of the full list of sites considered. See final bullet point.
 - The DCO for Hornsea 3 stipulated that the ANS should be located in “coastal” locations only, meaning onshore or nearshore, so no offshore locations were considered for Hornsea 3 as this would not meet the requirements for the compensatory measures. Several nearshore sites have been progressed already, so the final site was always intended to be an onshore location.
 - For Hornsea 4 we are looking at an offshore location. We have been informed that any onshore or nearshore locations will not be acceptable to the statutory nature conservation bodies as a compensatory measure for Hornsea 4, so no onshore ANS sites are currently being pursued for Hornsea 4.
 - It should be noted that the final decision on the suitability of sites is not wholly ours and all ANS locations have to be approved by the OOEG (Offshore Ornithology Engagement Group).
 - For the avoidance of doubt, no distinction has been made by us between the terms “back-up” or “alternative”, with regards to locations. I would refer you to our Statement of Case and Summary of the Site Selection Process for details of our site selection process and BRAG criteria and all sites were assessed equally under those criteria.

- **Email dated 04/12/23 - subject “FW: Port of Hartlepool and former Coastwatch building”**
 - You have asked us to explain who was responsible for the ‘Green’ allocation, together with evidence as to both why when exactly the ‘Green’ allocation was applied.
 - In answer to your question, as the Summary of the Site Selection Process shows, the Hartlepool Old Yacht Club was ranked green in our 2020/21 BRAG exercise, which was an internal judgement based on expert technical advice on specialist issues. The Land and Property rankings were based on discussions with the landowners and the willingness of landowners to engage. In the case of the Hartlepool Old Yacht Club, the site complied with the criteria for green being “*The landowner has indicated they are willing to discuss the siting of an ANS on their property.*” The criteria at this stage in the site selection process only referred to the site for the ANS and did not take into account any other

third party rights or consents that might be required (as is typical for this type of site selection process).

- You have also stated that when we met on 26th July 2023 I advised that the Land and Property Team was not involved in the acquisition of the Hartlepool Old Yacht Club (former Coastwatch building). *“How therefore could any such “Land and Property” assessment have been undertaken if the decision to acquire had, as you had advised, already been made by the Orsted Operations Team?”*
- To clarify, the wider Land & Property team were involved in the acquisition of the Hartlepool Old Yacht Club, however the site selection process was a separate activity and, as stated above, the green ranking was based on the fact the landowner was willing to discuss the siting of an ANS on their property.

- **Email dated 06/12/23 – subject “Orsted and Port of Hartlepool”**

- You have asked where exactly the site at Redcar is and to provide a plan. You have also enquired as to who the landowner is.
- For the reasons stated in my email of 05/10/23, I will not be disclosing the exact location of the site at Redcar, or details of the landowner, as this is considered to be commercially sensitive. However, the landowner has since confirmed that at this time they do not wish to progress discussions, as their future plans have indicated that they do not have any land available for ANS on their property.

- **Email dated 07/12/23 – subject “Port of Hartlepool and former Coastwatch building”**

- You have asked us to confirm whether the land at Steetley Pier was considered.
- Steetley Pier at Hartlepool was one of the sites considered as part of the 2020/21 site selection process and was ranked black under the BRAG criteria, so was not progressed.

- **Email dated 12/12/23 – subject “Port of Hartlepool and former Coastwatch building”**

- You have asked us to confirm whether the land you proposed at North Gare was discounted.
- North Gare was one of the sites considered as part of the 2020/21 site selection process. It was not progressed for the following reasons:
 - the coastline having multiple national and international designations;
 - detailed justification would be needed to demonstrate the enhancement to the area from the proposal;
 - further investigation would be required on public access due to Open Space and on requirements within areas safeguarded for nuclear power station;
 - Natural England also highlighted the proximity of an SPA/SSSI high tide roost and also the generally open landscape, and indicated that they considered this site was not suitable.

- **Email dated 13/12/2023 – subject “Port of Hartlepool and former Coastwatch building”**

- You asked why we still considered the subject site at Hartlepool suitable since it is *“immediately adjacent to a SSSI”*, when the *“reason for a ‘Black’ (showstopper) result is due to the area being located within a Site of Scientific Interest (SSSI)”*.
- In answer to this, the site is not located **within** the SSSI, it lies outside of the designated area and the development proposed for the site was not considered to have a detrimental impact on the SSSI.
- Each protected area has different designated features, so the impacts of a development will be different for each protected area, and they need to be considered and assessed separately.
- This view was further supported by responses received during our planning application from Natural England who stated that, *“Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified”*, and Hartlepool Borough Council’s ecologist who went so far as to say *“The proposed scheme to provide nesting opportunities for kittiwakes is a positive one for this Teesmouth and Cleveland Coast Special Protection Area (T&CC SPA) and Site of Special Scientific Interest (SSSI) species”*.

- All the responses are in the public domain and available on the Hartlepool Borough Council's website.
- **Email dated 14/12/2023 – subject “Port of Hartlepool and former Coastwatch building”**
 - You asked why we still considered the subject site at Hartlepool suitable since it is “*within close proximity to the Teesmouth and Cleveland Coast SPA*”, when the “*reason for a ‘Black’ (showstopper) result is due to potential concerns of interactions with Special Protected Areas (SPAs)*”.
 - In answer to this, the proximity of the site to the SPA was considered in the site selection matrix however it was ranked green/amber as the risk of the development proposed for the site having any negative impact on the SPA was considered low.
 - This view was further supported by responses received during our planning application from Natural England who stated that “*Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on the Teesmouth and Cleveland Coast Special Protection Area and Ramsar site*” and Hartlepool Borough Council's ecologist whose comments are noted above.
 - All the responses are in the public domain and available on the Hartlepool Borough Council's website.

I previously stated in my email of 05/10/23 the reasons why some of the information which you have requested cannot be disclosed. If you are unhappy with the decisions made by us in relation to your request, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: <https://ico.org.uk/make-a-complaint/foi-and-eir-complaints/foi-and-eir-complaints/>.

Best regards,

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Toby Yeates

From: Michael McConnell <Michael.McConnell@pdports.co.uk>
Sent: 27 December 2023 11:33
To: Helen Gray
Cc: Catey Oliver
Subject: Hartlepool proposed compulsory purchase of Port land
Attachments: Steetley Pier in Hartlepool - Fabulous North.html

RESTRICTED CONTENT

RESTRICTED CONTENT

Dear Helen

You will recall when we met at these offices some months ago I had advised that PD Teesport would consider buying the former Yacht Club property from Orsted.

As we discussed, it seems that Orsted made an opportunistic purchase of the property in the knowledge that it did not have direct access to the public highway, unless of course Orsted was proposing to use the route along the water front from the end of Ferry Road. That did not however appear to be the case since Orsted had incorrectly and unsuccessfully tried to claim after the acquisition of the former Yacht Club site that the site had access through the Port Estate.

Bearing in mind that Orsted is now seeking to secure access through compulsory acquisition of the port customs area, severing part of this area from the rest of the port, it would appear Orsted had either bought a completely landlocked property or is now dismissing access along the water front from its proposals.

If it is the former then the proposed CPO is an attempt to remedy errors made in its acquisition of the former yacht club site. Either way, would you please advise why Orsted is not proposing to access the former yacht club site alongside the water frontage from the end of Ferry Road, rather than seeking to sever port land?

The Land Registry indicates there is there is a restrictive covenant in place in respect of the yacht club site, restricting the use to that of a club house and for ancillary purposes. Restrictive covenants and access restrictions do of course have implications on land use and value.

You are also aware there are other waterside landbanks within the ownership of PD Teesport situated away from commercial port operations. North Gare/the former Leathers site and South Gare for example comprise around 233 acres. I understand that North Gare and South Gare were previously mentioned to Orsted as potential alternative options.

On the basis that Orsted withdraws the threat of the CPO and the resultant costs to both parties of the Inquiry, as well as distracting our business away from our core activities which generate economic activity and wealth for Hartlepool, PD Teesport could buy the former Yacht Club site from Orsted and lease an alternative one at say North Gare/Leathers or South Gare for ANS purposes. That would enable Orsted to obtain its objectives of the establishment of an ANS only in a locality away from secure commercial port operations and rectify the bad property deal regarding the original acquisition of the former Yacht Club site.

I have incidentally attached details of the Steetley Pier at Hartlepool. You may not be aware but this has had a kittiwake colony previously and so no doubt should presumably have ranked highly in your selection criteria if it was considered.

I look forward to hearing from you.

Kind regards,

Michael



Michael McConnell
Group Property Director

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