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00:02

Good afternoon, everyone just resumed this hearing. It's now quarter past three, can I just check with the case team that you can see and hear me clearly and the recording has re commenced? Yes, I can see and hear you and the recording started. Thank you. right onto our agenda item number five, that consideration of duties under the Equality Act? Could the applicant provide an update, please, in relation to compliance with any duties under Section 149 of the equalities act? 2010?

00:41

Yes, I'm going to ask Mr. Rhodes, to deal with this. And so I'll pass it over to John Rhodes. Thank you.

00:55

afternoon, sir John Rhodes for the applicant. So certainly, so we're continuing to be very aware of the importance of this issue. And in response to your question, it's certainly occurred to us that it would be sensible to update the statements submitted with the application in two respects, two principal respects. But the quality statement, as you know, submitted with the application set out the lengths that the applicant had gone to to ensure engagement with all with all parties who may have protected characteristics that might make it difficult for them to engage in the consultation, but also to understand the issues that may be relevant to those parties. And the two things that have really moved on since the preparation of the statement are clearly further engagement and also further rounds of consultation, particularly in relation to propose changes to the application. So we should update the equality statement in that in that respect. But just as importantly, a lot of these issues, a lot of the issues that were raised and we believe are relevant. Influence influenced the mitigation proposals that we have in relation to the application. And we've now got a lot more detail that we can explain. And a number of the headings of mitigation. So for instance, in relation to employment and training, we developed our proposals in relation to outreach on relation to the housing fund. We now have proposals which identify potential impacts on vulnerable groups. In relation to community safety, there are a number of issues, we developed our proposals and engagement with the authorities on public services, resilience, and the way in which that protects vulnerable groups, developed our proposals for community engagement, both during and arrangement post decio, through the construction process, develop the proposals for the community fund. And in areas like the noise mitigation scheme, we particularly develop proposals for those that may be at greater risk. We developed our proposals, as you know, with with pro quarter, which we've recorded in the statement of common ground, but we hope to be able to confirm the nature of the agreement for the pro quarter as well. So a number of areas where we really ought to, we think update the statement. It's it's a matter for the examining authority, of course, but it did seem to us the sensible thing to do maybe, to ensure that the statement is fully up to date towards the end of the examination, we could iterate it through the examination, but particularly in the proposals for mitigation on are firming up in a way that would make the statement most useful if it could fully reflect the development of those initiatives.

03:52

So what timing, are you contemplating them in providing that updated statement to the examination?

04:02

A useful deadline? I'm being eight deadline eight, if that is sensible as a latest deadline, but not so late, that consideration can't be given to that which we've submitted.

04:18

Okay, that's helpful. Thank you. Thank you. Moving on, then I think you have the applicant had provided a response to ca first written question 1.42 on this topic. There was also a second question in the second round of questions. Ca 2.27. would be helpful if the applicant could provide a summary update, and then perhaps a more detailed response in writing to that second question.

04:58

So absolutely, we will. Thank you.

05:00

Are you able to give a summary update currently or reserve it until writing and later stage.

05:09

So the summary was principally the short summary that I've given you just now I can go into more detail in relation to each of those issues. But it's principally to say that we've continued to ensure that we've engaged with what we call hard to reach groups, and to take account of what we're advised, but more particularly with the benefit of detailed discussions with the authorities especially but also with other interested parties. The mitigation has become increasingly refined and sophisticated to ensure that it addresses the issues of all sectors of the Society of society. So we have quite a lot of detail that sits behind our discussions, for instance, on the health or on the public services resilience Fund, which address those issues directly. I could walk you through some of those issues, but it may be sensible to respond as clearly as we can to the question and then make sure that the statement is as comprehensive as it can be, because we're certainly aware of the duty on ourselves and on the examining authority in that respect. We want to give that information info.

06:14

Okay, thank you. Mr. Seymour, I see you on screen. Is there a point that you're wishing to raise? Hello, I've been invited in just in case I was needed to talk about the utilities. Okay, now, I think not quite on that point just yet. Okay. So if I can come now to agenda item six, which is sections 127 and 138 of the Planning Act 2008. The acquisition of statutory undertakers land so I'm sure become in tune with Seema shortly, and the extinguishment of rights extinguishment of rights and removal of operators of statutory undertakers. So can I understand the current position in relation to negotiations with the statutory undertakers please

07:21

come to the applicant? So yes, if I can start on this by way of an overview. There's been significant and very positive engagement with the effective statutory undertakers over a number of years, as you've seen reflected in the progress that's reported in the most recent version of Appendix C to the statement of reasons, which is rep 6012, or will be providing a further updated deadline seven. It As you've seen, I have Mr. Seymour available. He's the for his from glandore projects, limited his utility interface manager, you can deal with those statutory undertakers if you've got specific questions in relation to them. But we we have statements of common ground with, obviously a number of Undertaker's so far as the negotiations are concerned that they're principally I think, in relation to protective provisions, and what they will secure for the stash, john stakers, and et CIE. That's under a separate agenda item here. So I was going to suggest that I provide an overview of where we are with the protective provisions on your next item. But is there anything so in relation to the position as reported in Appendix C, that you'd either like to ask about or that you'd like Mr. Seymour, to explain. Now, I think if you're able to give us that overview, that will be well said so far as the discussions on protective provisions are concerned, which I think are probably the key here. We've got protective provisions agreed with the following stash Undertaker's Anglia water Northumbrian water limited trading is Essex and Suffolk water. The bt group and Virgin Media so far as others are concerned the following stasha Undertaker's have indicated they are content with a planning with the protective provisions as drafted but we're awaiting written confirmation so that those fallen into that category, our gala But offshore wind farm limited, greater gabbeh odd UK power networks and Vodafone. in respect of those parties, the protective provisions in parts one and two sheduled 18 are sufficient to ensure therefore no serious detriment to them. Detailed engagement is ongoing with others to negotiate the remaining differences on protective provisions and hopefully to secure agreement before the closer to the examination. So there are four that I just refer to under this category that were rail. My understanding is that there is a side agreement which is close to being executed and that once that has been done, we anticipate that network rail's remaining points will be overcome, and therefore, its objection would be

11:07

withdrawn. They can obviously speak for themselves when they provide you with an update in due course, but then part three of sheduled 80 into the draft of the consent order will then be updated to reflect terms of that agreement. We believe that protective provisions are agreed in principle with National Grid electricity transmission. So we think we're close to agreement there. So far as cadent is concerned, those are not yet agreed but negotiations are continuing on the remaining issues will provide a further update in writing at deadline seven, NDA Magnox the protection provisions are not yet agreed. But again, negotiations are continuing on the remaining issues, we'll have a further update in writing at deadline seven, I also understand they may be appearing in part two of the compulsory hearing so we can see where we are with the benefit of their participation. But the applicant doesn't see any reason why it wouldn't be possible to agree in appropriate form of protective provisions or agreements where that's relevant by the close of the examination, that there are, of course, other steps they conceive not responded to the draft protective provisions in sheduled 18, and are not objecting. And we say it's reasonable to assume in those circumstances, they're content with a standard form of protective provisions, Sadat and sheduled 18 for the protection of their interests. So that's part one, electricity, gas, water and sewer and part two electronic communications networks. So that's by way of overview of where we are, unless you've got any particular questions you wanted to raise at this stage, sir.

13:00

So does that include that that sort of final conclusion that you're you're pointing to cityfibre and GDC? pipelines, who I don't think cityfibre had responded from your last correspondence to them at the end of July? From what I've read. So are you assuming then that that content because of the lack of response?

13:28

I that's why I understand it, I'm just looking to see if there's any, anyone indicating that that's not right. I'm not getting any suggestions to the contrary, but let me just check that.

13:52

So I understand there's been no response to the material we sent out so that they would seem to fall into that last category.

14:00

Yeah. And I may have missed it in your summary of Vodafone, engaging constructively with you, and you're in a situation where they're also heading towards agreement.

14:15

Vodafone have they were on my second list. So they were on the list of stashes. Um, so you can see indicated they are content with their predictive versions, but we're awaiting written confirmation so that, that I've gotten them under that list. Okay, so

14:29

now that's helpful. Thank you. I think in terms of statutory undertakers, they're the only ones I had listed as well. What they wouldn't possibly come as a statutory Undertaker. But one of the things I have noted in the relevant representations, and these are our 800 with as a ministry of defense, I think it has protective provisions. So, I may have misread that. But I'd be just interested whether anything has happened further with them.

15:10

So I'll have to just take instructions on that. If you'll bear with me, I'll see if there's a quick answer. If not, we might come back to you in writing. Okay, not to worry.

15:27

So we're not aware that they've got an interest in any of the land that is affected. We'll we'll, we'll check. But that's, that's my understanding of the position.

15:37

That's, that's helpful as it sounds, I may have misread the relevant representation, but that was the way I'd read what they had asked for. Okay, so that's the statutory undertakes now, Suffolk County Council's seem also to be seeking protective provisions as Highway Authority. Has that now got a position of agreement between the parties? What what's your position on that as it stands?

16:14

And so now, that agreement has not been reached, they're the position that we I believe have articulated in writing on this remains the case, we don't think that they've justified the need for protective provisions. We believe, as I think we've explained in writing that their legitimate interests are protected up up by other means. And so at the moment, we remain to be persuaded that that is necessary or appropriate.

16:47

Thank you. I think Mr. Bedford's hand up so it's probably a good time to come to him. In light of what you just said, Mr. Phillips. Mr. Bedford, can I hear from you on this point, please?

17:01

Thank you. So Michael Bedford, Suffolk County Council. So it may be a matter of terminology, or there may be a matter of substance that in rep, six, zero 12, which is the update on the negotiations with statutory undertakers at page 36, under the heading Suffolk County Council, highways, it states that operators has been identified across the sysvol see main development site and associated development sites. The implication that is obviously the county Council's operators in terms of highways, infrastructure, and then what it then says in terms of the applicants proposals, it says protective provisions will be included in supplementary agreements where necessary with Suffolk County Council highways under Article 20 of the decio. And it then refers to email exchanges, which have taken place with the parties on that. And then ends that section by saying the regulation works in the highway is regulated under the new new street works act in accordance with articles 20 and 21. of the DCA. Also, we had not understood until Mr. Phillpotts remarks just a moment ago, that there was an in principle objection on the part of the applicant to protective provisions for the county council in relation to its operators, highway operators. What we understood that the as it were, the discussion was about was the appropriate vehicle in which to house those protective provisions. And obviously, one vehicle is through sheduled 18 of the decio. So they sit with the other protective provisions, potentially an alternative vehicle is for them to sit outside of the decio itself, but in a separate agreement, which is secured under articles 20 and 21. of the decio. I should say first of all, there are clear precedents for protective provisions in favor of highway authorities for their highways infrastructure being included in the protective provision shedule of a decio. We can give example. In a written summary, but two examples, I think springs to mind, one in relation to the a 303, spark furred to road improvement, that's certainly not the a 303, Stonehenge provement, which obviously you may have picked up as had subject to some litigation, but the the a 303 spark word, and then I think it's the East Midlands rail freight interchange. So it's a perfectly acceptable vehicle to include protective provisions in favor of a Highway Authority in the schedule of protective provisions within a developed consent order. What What if I can say with respect is likely to be of most interest to the examining authority is what is the most effective vehicle to ensure that the necessary matters are adequately secured in control? We are in dialogue with the applicant, we hope that we will reach a concluded position of an agreed position with the applicant on the most appropriate vehicle. And obviously, if so you won't need to trouble yourselves about that. But what we have done in the interim, is we have provided you and it's as an appendix to rep 650, which is the written submission that we put in advance of this ca. Hearing, we've provided you with the shedule, setting out the protective provisions that we would wish to see.

21:42

And our default position would be that they should be included within scheduled 18 of the decio unless we're able to reach a mutually agreeable position with the applicant that they can be adequately addressed through agreements that sit under articles 20 and 21 of the decio. So I say we're in dialogue, but I was slightly surprised that the as it were the opener for Mr. Philpott, which made it sound as if there was some kind of in principle problem, whereas I was hoping that it's more a question of it's just a matter of discussion and negotiation on the most appropriate place to put the productive provisions. Not that there shouldn't be any.

22:25

Okay, sure. Mr. Robot can respond to that point in, in coming back.

22:31

So yes, indeed, I think we may be slightly at cross purposes here. And the position is, I believe, we've explained in writing and reflected in what I said, is that we don't think that the inclusion of protective provisions that is within scheduled, 18, is necessary. And the answers we provided already, are not to the effect that no vehicle needs to exist, in order to ensure that the county Council's legitimate interests are protected, simply that that exists elsewhere, and references made by Mr. Bedford to Article 21 agreements with street authorities. And my understanding is that that is indeed, one of the if not the most appropriate places to deal with is rather than protective provisions, per se. And what I would say, however, is that, as I alluded to a moment ago, there is a meeting due to be held between ourselves and the County Council, which we can pursue this further, and see if there is, in fact, anything that needs to be left with you to determine, because, of course, if provision already exists, within the order, say in relation to Article 21. That means that the county Council's position is already appropriately protected, then the necessity for separate protective provisions would fall away. Nevertheless, we note that the county council has now put in what it would wish to see by means of protective provisions in the absence of agreement, hopefully agreement will be reached, but if not, there will of course, be an opportunity for us to respond in writing to that both in terms of the necessity and secondly, in terms of the detail content of any such provision. So I I don't propose to go further than that at the moment, hopefully that the issue will be resolved. If it isn't, there's an obvious mechanism in the examination where we can leave you with a clear written position of both sides and a recommendation can be made one way or the other.

24:53

Thank you. Okay, so if I go to item C in the event, that agreement is not reached with all statutory undertakers, whether the relevant tests for the exercise of powers pursuant to sections 127138 of the Planning Act would be met. So, comes to the applicant. First. There's no proposal for replacement land. So for those statutory undertakers, where agreement has not been reached, and under Section 127, how can the sechrest Secretary of State be satisfied? land could be purchased or new rights created without serious detriment carrying on of the undertaking.

25:48

So, yes, if I can begin by way of overview by reference to the approach has been taken, the approach has been to work with the relevant statutory undertakers to try and minimize the extent to which it's necessary to rely on compulsory acquisition of their land or rights or the removal of their operators. And section 127 is engaged in relation to the following session takers, Anglian water at Northumbrian water limited trading as Essex and Suffolk water cane gas and section 138 in relation to the following Anglian water, Northumbrian water cadent gas bt group National Grid electricity transmission UK power networks and Virgin Media and a table identifying those data translators was provided in response to questions ca 1.59. And an update is to be provided at deadline seven. But all of those interactions with the relevant strategize takers are to be regulated through appropriate protective provisions, which provides statutory protection to those bodies. So as to ensure that matters are either progress by means of agreement with independent arbitration where necessary, and it also ensures that appropriate replacement apparatus is provided, as agreed prior to any extinguishment or removal. Now, where bespoke protective provisions are being negotiated, but not yet agreed. The applicants position is that the Secretary state will still be able to conclude that the test is mad. And this is in particular in relation to serious detriment. Because no statutory undertakers, I understand is submitting their protective provisions are in principle in capable of adequately protecting its interests so as to avoid serious detriment. The difference so far is there are differences related to the detail of some of those provisions. And so in the absence of agreement, we would say there are two possible outcomes. The first outcome and the one that we would invite is that the applicants case as to the adequacy of its proposed protective provisions to protect the position of the relevant staff Jon's taker is accepted by the examining authority and or the Secretary of State. So that's the first possible outcome. The second possible outcome is that the relevant statutory undertakers case as to the need for a different form of words, in the proposed protective provision, in order to adequately to protect its position is accepted by the examining authority and or the Secretary of State and the decio, as made includes their preferred wording. instead. We are, as I've said, seeking to negotiate with the stashes undertakes to resolve all outstanding issues before the end of the examination. But if any remain, then we will provide alternative forms of drafting we'll provide our preferred form of drafting by deadline eight. We suggest then that that will be accompanied by written submissions, which will explain why we believe our preferred form of words is appropriate. And of course data Undertaker's will be able to

29:39

do the same, if they consider that that is necessary, and then we will respond to any contrary submissions by deadline nine, I suggest those timings it's obviously a matter ultimately, for you and your colleagues to decide what's the appropriate procedure, but I suggest those because that allows a maximum reasonable amount of time for that level. He said outstanding differences to be resolved, if that's possible, and if not, to be narrowed as far as can be. So we don't have issues that are left with you that could actually be resolved with the benefit of a little more negotiation. But either way that would enable the tests to be met. So under one to seven, the Secretary could be satisfied that the powers the compulsory powers over the stash home safe as land can be taken without serious detriment without the need for any replacement land and under Section 138. That what is proposed by where the extinguishment of rights and removal of operators is necessary for the purposes of carrying out the development which the order relates something which we've also addressed in response to answer to question CA, point 1.59. So on opposition, with the benefit of that procedure, we consider that a

positive answer can be given to that. Even if parts of our case were not accepted, because it's capable of being dealt with by provision on the face of the order. Thank you.

31:21

Just check that any other affected parties are affected persons that got any points that wish to raise on this issue. Now, on that basis, then I will revert to miss Mackay to take on the next agenda item.

31:42

Thank you.

31:52

Thank you, Mr. Moreland. So the next agenda item is section 135 of the Planning Act 2008. That's crown land. And I'm going to ask the applicant to provide an update in relation to the position on crown land. Just before I do so. We have the latest submission from Suffolk County Council. And that was in relation to the land owned by them. I believe that's the least and sports facilities, saying that the Secretary of State does not hold the land interest. But consent is required for disposal or change of use. So first, if I could clarify with Suffolk County Council, the Department of Education position and also that Department of Transport consent is not required or interests that are vested in them as local Highway Authority.

32:54

Yeah, so those two sorry microbead Suffolk County Council two different questions there in relation to the first which relates to the old Valley Academy sports facilities. The position is that that land is owned freehold by the county council. And there is a lease in favor of the Academy, which is a separate entity under the local management of schools, arrangement. And the crown in the the role of the secretary state for education has no property interest in the land at the old Valley Academy, I think we've had informal exchanges with the Department for Education, which confirm that they share that position, whether we've got something which is in a form, which is suitable for submission to the examining authority to confirm that I'll have to check. But we will, if you would like something in writing, to confirm that they share our view, we'll do our best to provide that at the next deadline. Thank you, that will be very helpful. So that's that was on your first point. Then on your your second point. Or perhaps I sorry, I should say separate to that. As we have said in our note, the so rep six zero 56 sitting outside of the crown land arrangements. There are circumstances where a consent from the Secretary of State for education would be required for a change in relation to recreational land. But that's not a crown land issue. That's as a result of the protection of playing fields in the like issue. So that's a separate matter and that would depend on the detail of the arrangements which are finally agreed As between the County Council, the old value Academy and the applicants as to the arrangements for those recreational facilities to be made available for use by the employees of the development. So that that's that belief that matter, then sorry, turning to your second matter, which was the issue of the Highway Authority, where highway land is held by Suffolk County Council, and were that land to be taken into the scheme through compulsory acquisition. If the land is held by the Highway Authority as local Highway Authority, let's say it is vested in Suffolk County Council as local Highway Authority, then the crown and the Secretary State for Transport has no interest in that land, because it's vested in the local Highway Authority, which is the County Council. And consent is not needed by the county council for its dealings

with land which is vested in it from the Department for Transport. Obviously, insofar as trunk roads were concerned, there would be a need to engage with highways England, but so far as the roads which are vested in Suffolk County councillors, local Highway Authority, there's no need for a consent from the secretary State for Transport. That's that's our position. I'm not aware that that's a disputed decision.

36:31

That thanks very much for the clarification. Mr. Bedford, that's helpful. Right, so if I can go to the applicant now, and if you have an update in relation to the position on crown land?

36:45

Yes, Madam, I should start by saying that Mr. Bedford has described the position in relation to the sports facility and the highways land, in terms that reflect our understanding as well, although those areas of land were identified at the time of the application as crown land because of interests that were thought to be held by the Department for Transport in relation to the highways and depart for education in relation to the sports facilities. The position is, I believe we've related in answer to written questions is reflected in what Mr. Bedford has said, neither is now thought to be crown land and ground. Therefore, their consent is not needed. So that is a common position. So far as the requirement for consents arising out of the use of the sports for that is is concerned, that, as I understand is is something that's been discussed, as Mr. Bedford said, with the applicant, and anticipate that will be resolved through those discussions. That leaves then, as I understand it to areas where the crown does have an interest, the Department for business energy and industrial strategy has interest on the main development and the main development site. Consent has not yet been obtained. But those discussions are ongoing. And the applicant is confident that consent will be forthcoming before the end of the examination, and we'll provide an update at deadlines seven. And at the second, areas where there is crown land within the order limits are higher as of right of her crown. And again, the position is the same their consent not yet been obtained. But discussions are ongoing with competent consent will be forthcoming for the end of the examination and will provide an update deadline seven. So that's the current position so far as current land is concerned.

39:00

Thank you. Right. And that brings us to the end of the compulsory acquisition hearing part one, Mr. Phil part, I just have Mr. Brock, who is anxiously awaiting to find out if you have the answer to his question that he asked earlier. And that was in relation to the Westall Marsh Harrier site. And that's where in the application and the examination material, he can find the tests and criteria for the decision on whether or not that sites is actually needed. Have you got an answer to that? Or must he wait for a later deadline?

39:55

Or what I sought to take instructions on that, and during the brief adjournment. I got part of the way to the answer. I understand that in appendix seven f to the first round questions byo x. One was an appendix, seven F which explained the position. However, having quickly looked to see what that contained, I wasn't able to identify in the limited time I had whereabouts within it. If it does, it identifies the tests that should be applied in determining the difference between the parties, and therefore

deciding whether or not the case for compulsory acquisition of the additional land to be made out. And so in those circumstances, what I was going to suggest is that rather than give a partial or incomplete answer now, it would be better if I came back to this first thing tomorrow, once I've had an opportunity to check that properly, and discuss what it says with my team so that we can provide hopefully chapter reverse on that. I'm sorry, we weren't able to do it by the end of today. But that there's there just hasn't been enough time for me to fully resolve it to my satisfaction in before we've got to the end.

41:29

Now. Thank you, Mr. Phillpotts. So we'll have that update when we resume. So I'll turn the heat hearing now, so it will be ch Part Two tomorrow. So we'll be hearing representations from parties who may be affected by the compulsory acquisition in the draft DC Oh, we will follow hearing the parties or representations in the order that they are listed on the detailed agenda. Sorry, Mr. Bedford, is there something you'd like to

42:06

point out? I had raised my hand and it wasn't an error. And it's my overlooking, it's not a madman. It's just a matter of information where I think I've misinformed the examination on one matter, since I think my instructions were some wires crossed. It was just on the point going back to the household waste recycling center. And the question of what the county Council's interest in that land was, and I think I had said that we had been paying rent on that land, having held over as a tenant after the expire ration of the term. I'm now instructed that I think that that's not quite right. And that it may be that rent hasn't been paid, but there have been negotiations in relation to the terms on which occupation will be continued. And I think that probably means that we are what's called a tenant at will, rather than having a periodic tenancy. So it's a slight refinement, but I wouldn't want you to be misinformed. I think what we will do is we'll check with the correct position with those who are more closely involved, and make sure that our written submission gives you the accurate picture on that.

43:29

Yes, indeed, or if you have the update by tomorrow, you could provide us tomorrow in your slot.

43:35

Yes. Yes. I mean, it may be it may be that it will be Mr. Lewis from sharper chart, who's going to deal with that tomorrow? But yes, we will endeavor to do that if we can.

43:46

All right, thank you very much. Right, so that brings us to the end of proceedings for today. We'll adjourn now and resume at 10 o'clock, with of course the arrangements conference at 930. So the hearing is now