

AUDIO_Sizewell_CAH1_Part2_Session1_180 82021

00:05

Good morning, everyone, and welcome to part two of this compulsory acquisition hearing, which has now resumed. Before I go further, please gonna check with the case team that my microphone and camera are working, and that the recording and live stream of this event have begun. Yes, I

00:22

can see and hear you, the recording started and the live streams working.

00:27

Thank you. Now there is one item on which the applicant was going to respond to today before we continue with the agenda, which relates to a question asked yesterday by Mr. Brock on the west Marsh Harrier site, could I check who's appearing for the applicant today? And if they have that response?

00:48

Madam, I appear on behalf of the applicant today. My name is Harry would fill part QC instructed by Herbert Smith, free hills, I have that response over there also to other matters that I was going to report back on, I'm happy to deal with those all together now or whenever it's convenient for you.

01:08

Now that would be sensible, Mr. Phil passive, hear them all. Now.

01:12

Thank you that so the picking up the point, firstly, that you've just alluded to, which is the position in terms of temporary or permanent possession of the wesselton site. The wesselton site is identified in the statement of reasons as being potentially required in relation to the provision of Marsh Harrier compensation habitat. And that is correctly identified in paragraph 4.26 of the statement of reasons as being a temporary form of development, because it is development that is required for the duration of the works, but not permanently. And that land is shown, again, correctly on the land plans as being for permanent acquisition. So the book of reference, reflecting that identifies the parcel of land as being one where class one and class four rights are to be acquired. So although it is very temporary form of development, the form of acquisition proposed is permanent freehold acquisition. And the reason for that is essentially to do with the duration of the occupation and use of the land because it will be required for the entirety of the construction period, which in this case is lengthy, reflecting the nature of the works, it's considered more appropriate and indeed proportionate, having regard to the impact on individuals, landowners, to provide certainty by taking a permanent rather than a temporary interest, effectively where one takes a temporary possession of a piece of land for a long duration, the landowner is left with uncertainty as to how long they will be out of occupation, but also as to the

ultimate quantum of compensation. That will come to them because that rule will reflect the duration of the temporary occupation. And so it is essentially because of the duration of the period of temporary occupation, that it's considered more appropriate and proportionate in the circumstances, to take a freehold interest. However, Sizewell C is also in negotiations with what we now know to be the impending owner freehold owner of the Western site, because, as I understand it, it's intended that the ownership will change at the end of this month for acquisition of the the rights by agreement. And of course, if that is able to be agreed, then that would be preferred over compulsory acquisition in terms of the exercise of the powers but but that in short, is a position there is no discrepancy therefore, between the nature of the use and the form of the acquisition and that is the reason why that approach has been adopted.

04:49

Or is that consistent with the approach to other areas of temporary possession that are likely to be required for the duration of the case? instruction period? Or is there some any specific distinction for this Marsh area site?

05:07

My understanding is that that is a consistent approach across the sites, because as you've indicated, there are a number of other places where the works are temporary, for example, in relation to the temporary rail works, where again, my understanding is that the acquisition is proposed to be freehold reflecting the same principle in the same essential considerations that I've identified. So it's a, it's a consistent approach. That's That's my understanding.

05:38

All right, thank thank you, it would be helpful if we could have have that confirmed,

05:43

will will have, I will obviously prepare a summary of the oral submissions. And as part of that, I'll have the relevant members of the team check and confirm the position, we can also identify their other plots, which are similarly treated. That will be really helpful. Thank you. The second related point was in relation to how the Secretary of State is to make the decision as to whether or not that site should in fact be included, and whether therefore the the works that are proposed to that site should form part of the order and whether or not the compulsory acquisition of that land ought to be approved. And I AI, question was raised by your colleague, Mr. Brock in relation to this, and we promised to come back on that. I'm going to provide an overview of the position now. But having discussed it overnight, we think that actually it might assist you and your colleagues, if we put together a note, which identified where you're find the competing propositions in relation to this issue, because it is ultimately something that is going to have to be determined, as you know, our primary case is that the western land is not required, on the basis that the other provision we're making is sufficient. However, there are other interested parties who believe that further provision is needed. And if their arguments are accepted, then we say the wesselton site would be necessary in those circumstances and the div would meet their concerns in in that situation, that we say the compelling case would exist for the acquisition of that site. And now the question that was raised was, effectively where what are the criteria we should use? And so we'll cover that in the in the note, but by way of summary, in the statement of reasons, there is a footnote

three at page 23, which makes reference to the shadow habitats regulation assessment, and in particular, the compensator II measures report. And that, in a nutshell, that footnote encapsulates the essential area of dispute. There's then more detail provided in appendix seven, F. Two the responses to your first written question bio 1.48, and that's rep two, dash 110. And, amongst other things, you'll find in there in paragraph 1.2, point four eight, an explanation of why, in circumstances in which the secretary state does conclude the land is necessary, we consider that its inclusion within the scope of the compulsory powers will be justified by reference to section one two to two and three of the Planning Act, that so far as the judgement that needs to be then made as to whether or not the fight is necessary and what therefore, whether that is triggered.

09:16

The Shadow, HRA report volume four, which is app 152. In section two describes investigations have been carried out over a number of years to establish the feasibility and design of the proposed habitat enhancement measures and what it also does is explains the principles that must be taken into account now it draws particular attention to the principles that are identified in Annex A to N six Annex A to N six is the imperative reasons of overriding public interest. And 8.7 deals with compensator II measures an 8.7. point five says that were site level assessments identify that compensation is required, it must meet the following criteria and B and then there are a series of bullet points. Now I'll talk about those individual bullet points in a moment. But that seems to us to be the most relevant place to find the criteria that apply when one is considering the adequacy of compensation. And so, those criteria identified, identified as follows, appropriate for the area and loss caused by the project capable of protecting the overall coherence of maturity 1000 network capable of implementation, capable of ensuring the maturity 1,000th site is not irreversibly affected by the project for the compensation is in place directed in measurable proportions to the habitats and species negatively affected, related to the same biographical bio geographical reason I should say, within the UK service functions that are comparable to those that motivate the original area submission for designation. And finally, clearly defined with implementation goals and managed. So the compensation measures can achieve the goal of maintaining or improving the overall coherence of the Natura 2000 network. So that those are the criteria that fall to be applied in making a judgement about the suitability and adequacy of the compensator II habitat. Now, inevitably, when one directs one's attention to those individual criteria, they require an exercise of judgement based on the evidence. And what we're going to seek to do in the note that I've alluded to, is to draw together, hopefully in one place, where you find the relevant evidence that is directed to those criteria. And to seek to summarise essentially the, the competing positions that need to be adjudicated upon. So that that is that's an overview. As I said, we'll provide a note which draws those points, hopefully together in one place. for your benefit, and obviously, if there's anything further that arises, after the submission of that note, we can update it if need be in the sort of final deadlines that the examination. thank thank you, Mr. Phillips. And then the final point, which is mercifully, much shorter than the other two, I did indicate when I was addressing the question of human rights, that there was authority, dealing with the relationship between the tests that apply for interference with the relevant parts of the human rights legislation. And the compelling case test essentially say that they compelling case case test is not setting the bar lower than is necessary for the purposes of the CH AR. And the best authority there on this seem to me to be the clays, lane Housing Corporation Limited case, the reference of which is 2005. One week ago, reports 2229. So we can

provide a copy of that, if you find that helpful, together with our summary of your all submissions for these hearings.

13:36

Thank you, Mr. Phil. But just coming back on your second point, Mr. Brock, is quite keen to have that note before his issue specific hearing next Friday. is is that feasible?

13:55

I'm not, I'm not getting any indication from those in the room to say that that wouldn't be feasible. And I can see why that would be much to be desired in terms of the efficiency of that hearing. So we shall seek to get that to you as soon as possible and ahead of that hearing.

14:11

All right, thank you. I have Mr. Horton with his hand up to the sir. Anything you wanted to say at this point, Mr. Horton.

14:20

Thank you very much, Mr. Chi. It's our client in Santo anindya bacon who are about to acquire the land. And as you can imagine, it is a major issue in relation to their views. Will that note, which Mr. Phillpotts alluded to be available to us as the site at the same time as available to Mr. Brock, in order that we can consider it in more detail prior to the Ice Age?

14:51

I'm sure I'm sure it will be published as soon as we as we can. Yeah, so. So, you know, obviously if it hasn't been made to it. Every available to everybody. He can't refer to it at that particular hearing. So certainly,

15:08

I'd also say just for Mr. Holden's comfort when we send it to you until we're happy to send it to Mr. odden directly, so that he has an opportunity to see it. As soon as it's available. Thank you, that will save time. Thank you. Thank you very much. Indeed, that's grateful. Right.

15:34

So those conclude our preliminary points. So as I explained yesterday, at this part of the compulsory acquisition, hearing, each affected person who is indicated or wish to speak, will be invited to give their evidence in turn, or respond to questions from the examining authority, the applicant will then be given an opportunity to present their evidence in response to each party's case, and respond to questions from the examining authority. So I'm taking people in the order they're listed in the detail to gender. So the first part I want to hear from is East Suffolk Council says that Mr. Ridley,

16:21

is probably really on behalf of the Suffolk Council, in respect of the small parcels of land that he suffered Council have interest in their small piece of land laced in the leisure centre, and three small parcels of land around the Oxford roundabout. in respect of those parcels of land, there are no

particular issues I wish to raise. But obviously on behalf of the Southern Council, I would wish to obviously hear what other parties may have to say. And in particular, in relation to the left hand piece of land what Mr. Bedford said yesterday in relation to his discussions with the, through the county council with the Department for Education in relation to the status of the old Valley sports fields, which are parcel of land abuts. So unless there is any further questions from your sales or the panel, I will leave and obviously continue to observe the meeting.

17:17

That's fine, unless there are any particular compulsory acquisition related concerns that you want to highlight if there's an issue or a matters agreed between you and the applicant on this.

17:31

There are no particular matters to highlight at this moment in time.

17:35

All right, thank you. Right, Mr. Phil part, you may or may not want to respond to that. No, madam,

17:47

as was said that the issue in relation to the sports facilities that was something which we discussed yesterday, and Mr. Bedford outlined the position, which is also covered in their deadline six, representation, as I indicated in yesterday's hearing, that that is a matter we're alive to and we're discussing with the County Council, and I understand it does also engage the East Suffolk councils interest interests, and my understanding is that those discussions are in hand. So I don't think there's anything I need to add at this stage. All right, thank

18:28

you, Mr. Phillpotts. Serve I hear now from Suffolk County Council. Is that Mr. Lewis?

18:38

Good morning, Mr. McKay. It is I hope you can hear me loud and clear. I can thank you. Good morning. My name is Alistair Lewis. I'm a solicitor at the firm shop brick chard continuum path for the Suffolk County Council. I do have a couple of council representatives with me as well who I may need to call on if there are any factual questions I can't deal with. Madam Mr. Phil pops already mentioned the council's note which has been submitted submitted at deadline six which is rep six, zero 50 and that sets out Suffolk County Council's supporting information for these compulsory commission hearings. Now a number of the issues raised in that note were dealt with by Mr. Bedford yesterday and I don't intend to trouble the examining authority with those today. Namely number three on the best which was pagan fen meadow. Number four, the SLR number five to village bypass number seven general highways issues and number eight protected provisions. Point number six relates to public rights of way issues which the council hopes will be settled by agreement and again, I don't intend to mention them today. There are two properties which the council wishes to speak about today. Both of which Were also mentioned yesterday and one of which has already been mentioned this morning in different contexts. They are number one in the council's note, which is the least and recycling centre. And number two, which is the old Valley Academy, also in leicester. just mentioned by Mr. Ridley and Mr.

Phil part, I don't wish to detain the examining authority long on either, and much of what I say is by way of an update of the current petition as between the parties. So if I started firing me with leisten recycling centre now, I don't think the examining authority visiting the centre or any of its site visits, it's located to the northeast at least and on lovers lane. It's the sort of facility which no doubt the examining authority is familiar with, to which local residents can bring their recycling for depositing in various different containers. It's important to note that the nearest other similar centres operated by the Council are in Lowestoft, which is approximately 35 minutes drive away to the north foxall in Ipswich, which is a similar distance to the south and Stowmarket, which is a longer distance away to the west. The recycling centre is safeguarded in the suffered minerals and waste plan 2020 which you have at appendix 1.2 to the local impact report, document reference Rep. 1063. The local impact report itself is referenced rep one, zero 45. The relevant policy is set out in table five on page 123 of the local impact report, its policy wp 18, which says the safeguarding of waste sites is necessary to protect them from other forms of development, which might either directly or indirectly impact on waste development. Suffolk County Council will object to development proposals that would prevent or prejudice the use of such sites for those purposes unless suitable alternative provision is made.

22:18

The works in the decio which will affect the centre are listed in work number one C and shedule. One, namely the realignment of lovers lane and the creation of a right turn into the recycling centre itself. In addition to the land take and physical works, the council is also concerned about the significant increase in traffic, including hgvs using Lover's Lane, particularly during the early years of construction. Of particular concern is that the land plans show that an area of hard standing at the entrance to the site is subject to compulsory acquisition. The plot in question is shown on sheet two of 28 of the land plans which is red five, dash 004. And the plot number in question is m d s. Ford slash 02 Ford slash 40. Little a, although it's a relatively small area 33.55 square metres according to the book of reference, the council is concerned that the implications will be that the site entrance gates that may have to be moved back, resulting in what is already a relatively small site being made difficult or impossible to continue to operate, particularly in combination with the council's continued concerns about safety of traffic entering and exit exiting the site during construction. In its note, the council suggests that the actual recycling area could be reduced by 45 to 50%. With the knock on being a potential reduction from 24 to 19 types of recyclable materials that could be accepted. Now in terms of land ownership, the book of reference points out that Suffolk County Council are lessees or tenants will reputed lessees or tenants of the plot. I just mentioned, that as Mr. Bedford pointed out yesterday, the Council have been holding over the lease of the whole site since its expiry, I believe in 2014. And it's likely that it does so under a tenancy at will. The Freeholder is a company associated with the applicant, EDF energy nuclear generation limited. Now as Mr. Bedford said yesterday, negotiations are ongoing between the council and the Freeholder about a new lease. And as the council's note, again, reference rep six zero 50 suggests it is the intention that agreement will be reached and set out in a statement of common ground. But the council is alive to the possibility as I had hinted that the decrease in the size of the site could potentially lead to it becoming unreliable. That is a situation which would present real difficulties for the council and of course for the local residents because there is no other suitable local site readily available for an alternative. And of course, any rate relocation would not only involve potential difficulties in securing land, but also in securing planning permission. If no satisfactory agreement can be reached, then the council would need to consider its options and in particular, whether to seek

assistance from the financial or otherwise in securing relocation before the existing site were to close. So just summing up, mme, the council can update the examining authority of D seven on further progress in negotiations. But I hope that is sufficient to register the council's concerns at this stage, arising as a direct result of the potential CPO of part of the site. The Council's notes, rep six, zero 50 listed some other specific highways concerns. And whilst I recognise they are not for today, they do need to be addressed by the applicant as well. And hopefully further updates. Some of those points can be provided at a later stage. So that's what I was going to say on the recycling side and then your hands as to whether you wish me to move on to the academy separately or take the two individual properties I'm going to talk about separately. I'm sorry, you're on mute.

26:45

But it's a thing with Suffolk County Council. I did that yesterday, trying not to distract people by paper wrestling. So I'm turning my microphone off. If you could just clarify for me on this particular topic, and then we'll move on to next area of land. But before I bring Mr. Philpott in. So can I just clarify, in your worst case scenario that it does make this site and viable? What exactly are in your negotiations? Are you seeking from the applicant? Is it some sort of financial recompense? Or is it up? Is there a real possibility that you might be able to find a relocation site?

27:33

Well, I think first of all, it's worth mentioning that as far as I'm aware, and we have discussed this within the council, there are no areas of land within the order limits already, which could be used alternative site. So for example, we had we had a discussion about whether potentially one of the park and ride sites might be used. But I don't think there's any real appetite for that probably not so with the applicant, either. We're not at this stage asking the examining authority to think about or the applicant to think about adding additional land to SEO for the relocation of the site as, as has happened in previous infrastructure projects I've been involved with I think particularly there's one specifically on HS two I seem to recall where during the progress of one of the bills, additional land was actually added to cater for the relocation of a recycling site. Strangely enough, so it's a second thing is I've come across before. As I hinted, I think what the council would like would be for assistance from the applicant in finding a new site if that were needed, and financial assistance in securing it and obtaining planning permission and reinstatement if that were available. I don't want to get too much into the detail because of course it's could be this could be an issue for compensation potentially in the long run. But yes, at the moment, we don't have any firm idea of of the exactly what we want because as I said during the during the during the process, we haven't at the moment identified a particular site where the premises could be relocated, obviously, the ideal solution is that they can stay where they are. You'll understand madam that of course, whilst recycling centres are popular for local residents to use, they're not so popular for people to have them in their back next to their back garden. And so finding a site particularly where we're in a location where we have the AONB, of course, as an issue, it could could prove very difficult. All right, thank you. So if you move on to your next point, thank you. Yes. So the next The only other point, already mentioned is the old value Academy. And again, I hope I can be quite short on this. So, as you know, I think the intention is that part of the school premises are to be used part time by construction workers and the public under the terms of the decio sports facilities. As as already has been mentioned yesterday, Mr. Bedford raised the issue of crown land, and said that endeavours will be made to encourage the Department for Education to notify the examining authority of its position as

regards the sports facility and confirm the council's understanding that the facility is not considered by the department to be crown land, and Mr. Philpott helpfully indicated yesterday that the order documents I think would likely be amended accordingly if that were the department's stated view. Behind that issue lies the question of ensuring that all the necessary steps that would usually need to be taken on the disposal or change of use of school playing fields at which the land in question is will be followed. You may have picked up from the council's note rep six zero 50, again, that the council was concerned that the purported requirement for crown consent if the land were to be continued to be designated as crown land might override the need for the Department for Education to give consent and other education related legislation. In terms of land take, the book of reference describes the site as approximately 25,890 square metres of private playing fields and trees. The relevant plot number this time is s f stroke 11 stroke 01. The plot is listed in shedule 17 to the decio. So is therefore subject only to temporary possession. But as you know, and as we have just heard, temporary in the context of the construction works could be many years. The purpose of the temporary possession is said to be

32:13

in federal 17 construction of work number eight, which I assume is meant to be a reference to work number five, and use of the facilities by The Undertaker's workforce and the public with no mention of the school. Work number five is landscape is described as landscape works including one 3g pitch and to Moulton us courts with associated fencing and flood lighting. And they are shown on a plan rep two dash 011. Now the status here is again negotiations are underway. And the intention is that the applicant will provide a sum of money to East Suffolk council to deliver and manage the new sports facilities at the Academy. This is proposed to be dealt with in sheduled 10 to the deed of obligation rep five dash 082. The current drafting would ensure that the continued use by the Academy is guaranteed and the intention would be that Suffolk County Council remain would remain the freehold owner, with the academy as lessee as it currently is. And with the Suffolk council operating the facility under a management agreement. Presumably the power to take temporary possession would only needs to be exercised if the negotiations word founder. Whilst the council is pleased that the applicant has shown its willingness to reconsider status of the of the playing field in terms of crown land. The question of Department for Education consent for any change of use of the playing fields under the education legislation remains a live issue. If the applicant were to exercise its powers so as to oust the academy completely, or curtail the Academy's use, such that the Academy was not willing or able to continue to use the facility. And this would likely constitute a change of use of the playing fields for the purposes of Section 77. Three of the school standards and framework act 1998, which would require consent from the Secretary of State. On the other hand, if the arrangements under the deed of obligation came to fruition, there may well be no need for consent at all, though that will depend on the detail of what is actually agreed. Now, I recognise that the scenario I just paint I painted just now is not likely to happen if temporary powers were exercised, and that if it did, the Secretary of State would be unlikely to give consent, but it does remain a theoretical possibility. So summing up whilst the negotiations remain ongoing, all I can really say is that there may be a need for Secretary of State consent under Section 77. And that it would be helpful for the moment if the applicant were to be able to confirm not necessarily today because this is sort of landed on this field, but slightly now notice that it agrees with the council that the exercise of powers under the decio does not override the requirement for consent under Section 77 of the school standards and framework act, where there to be any change of use resulting from the exercise of temporary powers under the decio. Again, Madam, obviously, the council

will keep the examining authority updated on negotiations that are still taking place. Madam, that was what I intended to say this morning on behalf of the County Council.

35:52

Just one quick point, I think he said that if the consent if it needed to be obtained from the secretary of state would be difficult or might be difficult to obtain. Could you just expand a little more on that? And the procedure for that?

36:12

It would only be difficult to to obtain? I think, madam if there was actually what is called a change of use of the of the playing fields into something else. If

36:23

that, is that specific that's specifically defined in Section 77, is it? What would the change of USB two and I'm

36:31

sure if it is specifically defined, there is guidance, which supports section 77. But if I could give you an example, is the theoretical example, which I mentioned to you, which is where were the temporary possession powers to be exercised wholesale in the light of negotiations foundering and and I recognise this is only hypothetical Lee, the applicant decided that it was going to exclude school pupils completely from using the site whilst it was in temporary occupation, and that only construction workers and members of the public could use it, then that would be a clear case of a change of use, I think there are probably varying degrees. And my understanding is anyway of what might or might not constitute a change of view. So you can, you can allow members of the public to use public school playing fields at certain times of the day or evening, or weekends, for example, so long as it doesn't prejudice, the ability for the school to use the playing fields for its purposes as a school. I think that probably summarises the position and and sets a clearly the picture I painted, which was a sort of a bit of a disaster scenario, really, would would I think require consent from the adaptive departments. Other other sort of variations on the scale, may or may not, and that would be a matter for the, for the for discussion at the time, no doubt with the department.

38:07

All right, thank thank you. That's. So if I could hear from Mr. Phillpotts in response. Yes, thank

38:16

you, madam, I'm going to deal with the old value Academy point First, if I may, because I think that will be briefest. And I have to say I've listened to what's been said, I think to describe this as a storm in a teacup would be to exaggerate the scale of the issue that has been raised. This really is an entirely theoretical point, which simply not going to arise, there is no change of use, proposed in the terms that have been described. But But nevertheless, that even if this was an issue, it is something which is capable of being dealt with through negotiation through appropriate drafting as appears to be accepted, and those negotiations are taking place. And there really isn't anything more to this, that then than that. And so rather than spend a lot of time on it, now, we'll continue to negotiate in relation to this issue we

think is readily capable of being dealt with and will be dealt with and will provide you with an update in due course, that there really isn't anything to look at here I would suggest.

39:39

Can I just say that if if the worst case in Suffolk County Council's mind, materialised. Would you then provide me with a full response to the points that they have mentioned to you? Yes, of

39:55

course. Of course it will. The idea that we're proposing to exclude school Children from the playing fields or change their use is obviously just not right. It doesn't reflect reality. And I'm so rather surprised at the point has been put in this way, bearing in mind that it's a straightforward point to address. We're not here dealing with theoretical issues. We're dealing with a real project, where the users are perfectly well understood the subject of negotiation to make sure that points such as this, which are relatively straightforward points to resolve are resolved and that you don't have to be troubled by them. And we'll update you, of course, in due course on this, but I really don't think that there's much to be gained from dealing with a position which is described by the county council as theoretical and not likely to happen. And I'll then come on to the waste recycling side. And, again, I'll try and be reasonably brief and proportionate about about this. Because as reflected in the fact that helpfully today, we've had clarification that the county council is not asking for additional land to be included within the order limits. You'll recall yesterday Mr. Bedford, saying, Oh, well, there may be an issue over whether there's enough land included of the limits. That's not an issue. The counter councillors helpfully made clear today, it's not asking you to recommend the further land being faded within the order limits. Indeed, I thought it was telling that when asked as to what it was, they were they were seeking, by way of negotiation wasn't really a clear idea of what they were seeking. And that that really reflects the reality of this issue, which is that it is well on the way to being resolved through negotiation. Because sizewell C is confident that there will be no need for the council council to relocate this facility. And it's been working very effectively with the County Council to help them out of the difficulty that has been described by means of two things. First of all alterations to the road layout and the entrance to ensure that any practical issues are able to be addressed. But secondly, I'm facilitating discussions with the Freeholder, the applicant is not the Freeholder. In order to regularise What is it the moment of a very tenuous position as occupier, as Mr. Bedford helpfully corrected at the end of yesterday's hearing, they haven't been paying rent, that they don't have, as I understand it, a tenancy. We are working both on the practical issues, but also, in order to give them help to facilitate discussions give them a more reliable legal footing to occupy the site. And it's simply not accepted that any issue arises here. As to relocation, left alone any suggestion that we need to acquire more land and for this purpose now, that's by way of overview, I'm now going to ask if I may, Mr. condcliffe. Income if you heard from yesterday, just to provide an overview and an update of where we are in terms of negotiations. If having heard from him, you'd like to hear more about the the highways aspects, then then we can do that. Or alternatively, we can deal with that in writing, if you prefer. So I'll ask Mr. Cuncliffe to speak now. And if perhaps when he's spoken, you can indicate whether you find it helpful to have more on the highways now or whether you can turn for that in writing. Thank you.

44:15

Good morning. Can you hear and see me? Yes, thank you. Good morning income left chartered surveyor on behalf of the applicant. Yes, as Mr. Filbert has summarised, there have been a series of meetings in which a design has been agreed with Suffolk County Council which will ensure that the facility along Lovers Lane can continue to operate which provides for a revised access, slip road and also provision for staff car parking spaces. So what we set out following a meeting with the Council on the 27th of July was a three point approach to ensuring that they can continue to operate from the site. The first stage was to enter into a form of agreement to regularise the occupation of the land, at present, to ensure that that's a drag Arise for health and safety and also to ensure that there is a property interest benefiting the council. The second point was to ensure that an interface agreement was negotiated, and agreed to ensure that during the construction of the sites and the works, the site could remain operational, and that the council had the comfort that they could continue to operate the site during the construction period. And then the third phase was going to be entering into a form of long interests between ngl and the county council to have that long term interest killed on Lovers Lane, benefiting the county. And that revised interest would reflect the new area accommodating the new access and also the new car parking spaces. So it was in that meeting that we agreed that that three point approach. And it is on that basis that we are we are taking forward discussions.

46:06

And in terms of achieving those three points, and is there any information you can give me at the moment as to where you are with that

46:18

the NGOs have gone away to look at what form of interest is can be granted to the council. Once the works have been completed. We haven't advanced further the tenancy at will which is intended to be adopted in this interim period prior to the work being completed. So we are really acting as facilitator, and we can continue to access facilitate and ensure that progress is made. Clearly what we want to do is make sure that we have a clear direction of travel by close of examination. We are engaging with ngl on a regular basis to ask for updates. And I understand that progress is being made by the county in parallel, although we're not directly engaged in their actions.

47:03

Thank you. Thank you. Right. I'm I'm content with what I've heard Mr. Phillpotts and if you want to provide further information on the highways in a note that would be very acceptable.

47:19

Thank you, as I said, Madam, and hopefully reflected in what you've just heard, we are confident that this just got a little bit quiet, Mr. Phil parked

47:29

that maybe as I move my microphone out of the way to take a drink. I apologise for that, yes, hopefully reflected in what you've just heard. And we are confident this tissue is going to be satisfactory results. So what I suggest is that is only really if there's any doubt about that. Or if we think that it might help you, we will provide you with further information on this point. What I wanted to avoid was taking

unnecessary time on something which ultimately you're not going to be asked to make a recommendation about. No, thank you. Thank you. Right.

48:09

That concludes Suffolk County Council. So if I could hear now from Sally watts, please.

48:21

Can you hear me? Yes, I can. Thank you.

48:24

Good morning is Smith guy. And I'm I'm speaking, you've heard from me several times before I'm speaking on behalf of Miss dyball Miss Hall, the owners of the land which I'm going to refer to as pagan themselves, as hopefully you realise the land is divided into a piece called pagan a Norse which belongs to somebody else. And my clients misdial and this whole own the pagan himself bit, which and I have they have a company tenancy. on that land, held by Sri Whitwell and company the land has on the recent fen Meadow plan has been revised, which my clients are pleased with in the sense that some of the land has been removed. And I do want to sort of reassure my clients that there can't be any changes to what has been put, you know, are these revised plans now the final ones or are they still able to make more changes IE could they go back to what they had originally put in? I don't know. And it would be useful to have clarification on that. But fundamentally, of course, in this instance, as we've said all along, we would like the examining committee to relook as Secretary of State to look Is there really a compelling need for this land to be acquired so many miles away from the actual size World project. In our minds, EDF have already demonstrated a commitment to environmental mitigation in the purchase of a whole farm leisten. And so therefore, we can't understand why natural England are insisting that they mitigate further on more for more land, and especially on land, all the way over by berries and Edmonds. Yesterday, we heard from Allen Lewis with the reasonings as to why he felt that they needed to take even more land than the nine times multiplier that natural England had specified. And I would like that to be adjudicated, you know, is it is there room for EDF to go back to natural England and say, Look, we can acquire, or we've got, it appears three willing landowners, because I'm only assuming they're willing because they're not being representative for this amount to Finland, and we could deliver 6.93 hectares of Fern meadow, which is 67% more than natural England are looking for. And therefore, could they get that approved. The extra wet woodland, which has now been identified, could still be delivered on the size world's own land at all test farm and size well have suggested this in their own wet woodland strategy document, which is rep one, hyphen, 20, page 16, paragraph 8.1 point two. So really, um, that that's, you know, I've mentioned on various other occasions, or the reasonings behind it, and how it's going to affect my clients business, and they'll have to make changes and, you know, basically, part of my clients business is the cattle that is very valuable to him. And if he loses, you know, the nine acres of land, then he's going to have to reduce his herd. But I just think that the best I mean, the legal I've thought about the legal reasons as to how EDF and the Secretary of State can show that a piece of land in peyten, over 40 miles away from the app development is absolutely necessary. And of course, it's not, there isn't really an absolute compelling case. So on behalf of my clients, you know, we're really looking for

53:01

you, as the examining committee to say to the Secretary said that basically compensator II fen Meadow can be delivered, but on a slightly lesser amount of land. So I just want to read out the letter, the email letter that I received from my client last week after the last meeting we had with Alan Lewis, do Sally I've been considering the latest proposals from EDF sighs well, which you've indicated are the recommendations natural England and have the following comments. Natural England have a remarkably successful stewardship scheme on our farm already, we have benefited from field margins winter burden pollen, nectar feeding areas and reduce the use of fertiliser on the farm. At the moment around the farm, we have a return of barn owls and see them on a regular basis. The songbirds have thrived and also the predators sparrowhawks buzzards kestrels and red kites are farming practices must have been conducive to their conservation. And the low murders have otters, waterfalls and many wetland birds already passing through as custodians of our countryside. It is correct that natural England are now devoting much of their time to saving the planet. I agree in principle with this but the practice of rewilding to create carbon absorption from the atmosphere can only be practical in certain areas. For example, in Yorkshire with Scotland and Wales, where there are 1000s of acres that can be utilised. The ultimate benefit could be massive, but to justify the town investment, there must be large areas of land involved to is it appropriate. It is on say, in those parts because there is less agriculture and loss of and less loss of food producing land will be less noticeable. The land by the river at Pakenham now earmarked for rewilding, that That's all that you can call excavating the land. It was reclaimed in the 50s to usable summer pasture, and more recently for the beef cattle. The Meadows have been useful for food production and have come complemented a mixed farming enterprise for many years. As I mentioned, the meadows ARRA funds mean farming activity for his cattle enterprise. And if we lose this summer pasture, he will have to reduce his cattle numbers, and may even have to question whether it is feasible to carry on with this enterprise. I do hope the planning committee will hear our case and recommend to the Secretary of State a minor change to the proposed gdo by removing the paper themselves learned from the project best reasons which is Steven. So although I haven't given you numbers or anything to do with actual compulsory acquisition matters, I still feel on behalf of our clients that there isn't really a compelling case, which is one of the tests that a compulsory acquisition that has to deliver. So on that's my bid for my client.

56:20

Thank you. I know you've put information in writing about the impact on the business. And you've mentioned today, there might potentially be a reduction in the herd. Are there any more details you could give me now, briefly? Or can you expand on that in your written submission,

56:39

I will expand on it in the written permission submission. Currently, we have 40 Capital with their followers. And basically, the summer Meadows are really important because that's where the moisture I mean, as probably has been alluded to why they're potentially suitable for fen Meadow land is that's where the moisture is in the land, and so allows the grass grow. Whereas near the farm buildings, we have a paddock, but of course that dries out in the summer months. So we need the the meadows near the river so that the cattle can graze there in the summer. And then they go in their shed in during the winter. And if if we lose that nine acres, in effect, we're losing half of our summer grazing. And so I'm saying that we'll probably have to reduce our herd down to 25. cattle.

57:41

Thank you. Thank you. I'll ask Miss Philpott to respond. Thank you, man. Can you hear me? I can hear you. Thank you,

57:59

Madam Chair. I'll try and deal with this in a proportionate way. Miss watts has helpfully been succinct and proportionate in setting out her client's case. And I'm also also mindful of the fact that in the second round of written questions ca 2.5. As I understand it, seeks essentially a written account of the key elements that would make up the compelling case for this side. But I'll provide a brief overview before turning to two other speakers to provide a bit more substance, madam a zoo, as you'll be aware, that this site is proposed in order to meet the impacts of the proposed development in a way that will satisfy the requirements and the advice of natural England. And we are alive to natural England's role as a government's adviser on these things. It doesn't necessarily mean the secretary state is obliged to accept natural England's position, but we naturally will take their advice seriously and seek to meet it where we can and for the reasons that Mr. Lewis summarised yesterday and we should be explained in writing and will be dealt with further in response to ca 2.5. We believe that the approach we have taken is proportionate and appropriate in relation to ensuring that sufficient habitat is recreated and that essentially provides a key element of the compelling case in terms of the need and the need for the particular quantum. We've also explained in some detail in writing the process by which we have arrived at this particular side and further the process By which we've been able, more recently, to narrow down the areas that are proposed to be acquired, so that no more land is taken, then can be properly justified. And so that that is important, obviously, in terms of the proportionality of the interference that is proposed. Now, against that background, I want to ask two speakers to come in on some particular points that were raised. I'm first going to ask Mr. Lewis, Alan Lewis, who spoke to the examination yesterday, to deal with three points that have been raised. First of all, the position of natural England, please, it was suggested, we should go back to natural England to try and persuade them to take less second, whether the woodland could be accommodated elsewhere, which is a separate point that was made. And then finally, a concern raised by Miss watts client about the existing wildlife on the site. So I'm going to ask Mr. burrows to deal with those three matters. When he's finished. I'll then ask Mr. Jonathan Smith here from yesterday, to deal with the impact on the landowners interest, which is also obviously relevant in terms of the compelling case. So I'll ask Mr. Lewis to speak first.

1:01:47

Hello, ma'am, can you see and hear me now sorry, I had trouble with my touch screen again. In relation to the point about natural England's requirement for the multiplier, obviously, we've promised to prepare a note on that. I think, as I said yesterday, our starting point is the 4.14 hectares, which is effectively defined by the nine times multiplier. The fen Meadow plan itself, explains why we think we need 8.31 hectares. And the note will provide further justification of that. Yesterday, I did ask natural England to provide an updated position in relation to the quantum and I will contact natural England again and see if they're prepared to make a statement ahead of the issue specific hearing next week in respect to that quantum in relation, that will be very helpful, because they have indicated that they won't be present. Yeah, that's right. And I'll encourage them to see if they can update at least the row in the statement of common ground in relation to to the quantum in relation to the wet woodland point, that

Miss watts mentioned in relation to rep 120. And one of the important points that we make in the wet woodland strategy, which is supported by natural England, is that it's important that the woodland and wherever possible is co located with fen meadows. So that's an absolutely intrinsic point within the wet woodland strategy, that is why we co locate it at the Pakenham site, and also at the Battle site. So it's that colocation point, which which drives that that wouldn't be possible at the main development site, there aren't any locations where we could immediately okay wet woodland, adjacent to fair Meadow at that site, it would be all over the wet woodland strategy, we do define that as an alternative contingency effectively, if we are unable to divert it deliver it at the femoral sites, it is very much not a preference and not one that is supported by natural England or the other recology stakeholders. Hence the reason we try and co locate it at the the fen Meadow compensator II sites. And I hope that's understood. The third point that the Mr. Philpott wanted me to cover was existing wildlife and of course, what we're doing at these sites is we're improving the site's wildlife. So what is currently an area of improved grassland will become an area of fair meadow. So there won't be any disruption to the existing wildlife things like barn owls, those we will expect those to, to thrive and prosper once those habitats are established. So we don't see any long lasting effects on on on the wildlife in those areas. Does that help? Are there any queries on

1:04:45

that? Maybe when you do, you know, you could just expand on the latter point. Because, you know, you saying you're improving it for wildlife, but we really want to understand obviously, the farmer has done what you know, he's got this stewardship arrangement. Wildlife is a consideration and existing wildlife. You know, is there going to be any impact whatsoever on those already increased competition, for example, for the bow on ours.

1:05:13

There shouldn't be any increased competition for banners or should be habitat should be better for barn owls, but but we'll cover those points,

1:05:21

those points so we understand that fully. I certainly will. Thank you. Thank you.

1:05:36

Thank you for that. Adam is now going to turn to Mr. Jonathan Smith just to deal with impact on the landowner.

1:05:49

Good morning, Madam Jonathan Smith, chartered surveyor on behalf of the applicant. Can you hear me see me clearly? Good morning. Yes, thank you can Oh, good. That's That's good. The applicant? Yes, it's a good start. The applicant has been engaging with the affected party since September 2020. Draft heads of terms for the proposed fen Meadow establishment foot forward to miss watts in May of this year. During the engagement, it was noted that the affected party was keen to understand more detail on the establishment of the and and future management of the fan meadow. And it was also noted that the affected party would like to retain ownership following the information provided by the applicant within the FEM Meadow establishment plan, deadlines six, and the detail provided by Mr.

Lewis, at our on site meeting with Miss watts, and attended last week, I believe now there's a better understanding of the proposals. Heads of terms for the land needed to establish the fan meadow and future management of the land. Were also explained at the meeting. The proposed terms provide provision to protect the income stream and livelihood of the occupier and owner and ally the freehold to be retained. And I understand the applicant is now going to provide some information in relation to the potential loss on the land, so terms can be progressed. At the meeting, last week, we discussed the areas and stocking densities. And despite the fact that income stream will be protected, I wasn't aware that it was going to be such a dramatic reduction in livestock on the holding. However, we will obviously work with the affected party going forward to understand how that can be mitigated. Hope that helps

1:07:37

know that that helps. Can you just set spot you said there would be in tight under these heads of terms the freehold would be retained. But and you would develop a leasehold interest. Is that right?

1:07:56

Yes, that's correct. So there would there would be leasehold for the establishment and then there would be risk restrictions put on the land. So it'll be managed in the way to protect it going forward. Yeah. The freehold would be retained. All right, thank you. Thank you. Thank you, Madam Chair,

1:08:15

just a couple of other points, if I may 1, just by way of reference, you be aware that we have been providing responses to written representations, and to submissions as we've been going along, including in relation to individual landowners. And so those have gone in it deadline, three, Rep. 3042, deadline five, Rep. 5119. And also deadline six, I'm sorry, I don't have in my notes that the deadline six reference, but they include written responses to some of the individual points that have been put forward on behalf of Miss watts. clients. So so that was the first point I just wanted to provide by way of reference that the second point was, I understand that there was a query as to whether it's going to be the client my clients intention to increase the land shown in the plans. Again, I don't understand that to be intended as you as you're aware, the reasons, reasons have been given as to why the areas are to be reduced and that effectively reflects a more detailed understanding of site suitability on the ground. So my understanding is that that reflects the applicants intentions in relation to the land. I'm obviously not in a position to provide a guarantee as to what might happen in the future. But certainly there's no expectation or intention that that will change. And as I indicated in yesterday's hearing, we will need formally to change the plans that show the land to be acquired in order to reflect that. So I hope at that stage that will provide yet further comfort in terms of the position because obviously, if at that stage, we wanted to increase the area to be compulsorily acquired, then there would be procedural issues that would have to be overcome in that respect. So although I can't provide a guarantee at this stage that reflects my understanding of the client's position, and I said, I hope further comfort will come when the substitute plans are formally submitted.

1:10:56

Thank you, Mr. Phillipotts. Sally watts, I wouldn't normally come back to you, I did outline the sort of the batting order at the start. But if you did have a quick point that would helpfully be made. Otherwise, I'll ask you to put your points in writing.

1:11:13

Just a quick point was that I hadn't appreciated or I still need the clarification. My understanding was that we were going to have a lease for 10 years, and that at the end of the Fenn Meadow was successfully delivered, that then EDF would need to acquire the land. And I'm sort of getting mixed messages. So yeah. Yep. can just clarify that? Yes.

1:11:42

We can we can, we can deal with it, perhaps in a node that will be for Mr. Smith. But I wonder because that's a matter of negotiation over the private, negotiated alternative to compulsory acquisition, if we can deal with that. Outside the hearing that might be more efficient.

1:11:59

Thank you. Right. The next person I'd like to hear from is Simon Mellon.

1:12:24

Is Mr. Melon present? He was on my note attendance lists as being in attendance. Can I check with the case team? If you can still hear me?

1:13:08

Yes, I can still hear. Mr. Melon. Did you think he might be heard this afternoon? So it may be that he's away from his computer? All right. Let me see.

1:13:25

Well, in that case, if it's nearly Oh, can we just see if we've got him if the case team could just see if he's there.

1:14:11

I think given that it's nearly quarter past 11. Before I move on, the next person on the list would be Michael Horton who has one or two people that he wants to speak to. So if we adjourn now for court for an hour until 1130 I'll get the case team perhaps you can make inquiries in the meantime to see if we can get Mr. Melon back. If not, I'll go on to Mr. Horton. So on behalf of Ward farming, NJ bacon farms, and a W. Bacon world trust. So we'll adjourn now and resume at 1130. Just to remind those watching on live stream to refresh your browsers in order to do with view, the restarted live stream after the germ and so the hearing Is this adjourned