

CAH1_29 March_PT1

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FULL TRANSCRIPT (with timecode)

00:00:06:10 - 00:00:20:00

Good morning and welcome. It's now 10 a.m. and I am starting the first compulsory acquisition hearing for the application made by Equinor Limited for the Sheringham Shoal and Dudgeon Wind Farm Extension Project.

00:00:21:25 - 00:00:57:04

We'll introduce ourselves fully in just a few minutes. Before we do that, please bear with me while I deal with a few housekeeping matters. Can everyone hear me at the back of the room? Yes. Thank you. Um. Are there, please, Can you confirm if the meeting recordings and live streams have started? Yeah. Thank you. And were there any requests for reasonable adjustments? Thank you. Uh, there are no fire alarm drills today, so any alarm should be treated as real. The assembly point is outside the front of the Britten building on the chapel lawn.

00:00:57:06 - 00:01:06:29

As per the notices, please do not re-enter the building until you're told it is safe to do so. Toilets are down the corridor to the right after you enter the building.

00:01:08:14 - 00:01:29:10

Right on to introductions. I am Mr. Hi. I have been appointed by the Secretary of State for levelling up housing and communities as the lead member of the examining authority to carry out an examination of the above application. I'll hand over to other members of the examining authority to introduce themselves. Um, Mr. Rennie, could we start with you, please?

00:01:30:25 - 00:01:39:19

Good morning. I'm Mr. Rennie, appointed by the Secretary of State as a member of the examining authority. I will be leading on items 8 to 10 and 13 and 14 today. Thank you.

00:01:41:06 - 00:01:50:02

Good morning, Mr. Wallace. I've been appointed by the Secretary of State as a member of the panel. This examining authority, noting hearing actions today.

00:01:52:04 - 00:01:57:28

Okay. Good morning. I'm Mr. Manning and I've been appointed by the Secretary of State to be a member of the examining authority. Thank you.

00:01:59:26 - 00:02:00:17

Good morning.

00:02:00:19 - 00:02:10:04

I'm Mr. MacArthur, also appointed by the Secretary of State as a member of this examining authority. Mr. Manning and I will contribute to discussions as necessary today.

00:02:12:18 - 00:02:45:24

I can confirm that all examining authority members have made a declaration of interest responding to planning inspectorate's conflict of interest policy, and none of us have declared interest in relation to this appointment. Also present today are members of the case team. Case manager is Miss Louise Haraway. Miss Haraway is supported by Mr. Tom Bennett here at the venue and by Ms.. Harper Parker and Mr. Christopher Glaser Online. If you have any questions or concerns about today's event, please contact a member of the case team.

00:02:46:15 - 00:02:53:00

The audio visual and the audio Visual service today is provided by a team led by Mr. Stuart Avis.

00:02:55:03 - 00:03:27:06

That's the team on our end. Turning to attendees today. First, I want to acknowledge and welcome those who are watching the live stream today. Welcome and thank you for joining us. I would now like to start with introductions from attendees. Um, when I get to a statutory undertaker, landowner or agents representing landowners, please indicate if you wish to speak at agenda items 11 or 13. And if I could just remind you that at this hearing, this hearing is not a chance to repeat anything that's been submitted in writing.

00:03:27:14 - 00:03:57:29

Please either build on your written submission or highlight issues that really concern you and are a point of difference between you and the applicant. So my running order today will be the applicant. National Trust, National Highways. Norfolk County Council, Barford and Rampling and Parish Council Norfolk Parishes Movement for an offshore transmission network, National Farmers Union and land interest Group Bid wells representing affected person affected persons.

00:03:58:01 - 00:04:01:24

Savills Brown and Coal Ardent.

00:04:04:15 - 00:04:10:15

Can I start with introductions from the applicant, please? Good morning, madam.

00:04:10:17 - 00:04:23:06

My name is Jan Ashwell. I'm a senior associate and solicitor at Burgess Salmon. We are acting for Equinor. The applicant and I will go to my right in terms of introducing the rest of our team.

00:04:24:18 - 00:04:29:04

Good morning, madam. Julian Boswell, partner with Burgess Salmon, representing the applicant.

00:04:31:20 - 00:04:37:03

Good morning, madam. I'm Laura Fuller, solicitor and senior associate of Burgess Salmon, representing the applicant.

00:04:39:10 - 00:04:44:21

Good morning, madam. My name is Simon Hinchcliffe. I'm a director at McLaren and I'm here representing the applicant.

00:04:47:21 - 00:04:52:03

Good morning. I'm Sherri Atkins. I'm the onshore consents manager at Equinor.

00:04:54:11 - 00:04:58:04

Good morning. Sarah Chandler development and consents manager for Equinor.

00:05:03:16 - 00:05:05:09

Is that everyone from the applicants team.

00:05:07:06 - 00:05:15:07

General for the applicant think that's everybody that we're expecting to speak. It might be, depending on what comes up, that we need to bring others in, but that's fine.

00:05:15:15 - 00:05:19:06

Thank you, Miss Ashwell. Introductions from National Trust.

00:05:21:27 - 00:05:27:25

Good morning. I'm Andrew Dawson. I'm senior estate manager for the National Trust, East of England and Midlands region.

00:05:30:26 - 00:05:33:09

Thank you. National Highways.

00:05:37:20 - 00:05:50:11

Good morning. My name's Kathryn Haslett from National Highways. I'm a solicitor representing national highways. And we don't have any. Sorry, we don't intend to make any oral representations today.

00:05:51:10 - 00:05:57:00

Thank you, Miss. Miss Ashland. Um. Norfolk County Council.

00:06:05:25 - 00:06:21:06

Okay. Thank you. Barford and Rumbling and Parish Council. Are they here yet? No. Okay. Don't believe they've joined us yet. And which will think we'll Norfolk Parishes movement would not be here either.

00:06:23:09 - 00:06:28:11

That's fine. Thank you. Okay. National Farmers Union and Land Interest group, please.

00:06:32:27 - 00:06:33:14

Good morning.

00:06:33:16 - 00:06:54:03

It's Louise Staples from the National Farmers Union. And I just want to confirm that I apologize. I'm only able to attend the hearing for a short time this morning and then representations will be taken over by Christopher Bond from Bidwell for the National Farmers Union and Land Interest Group. Thank you.

00:06:54:25 - 00:07:11:21

Thank you, Miss Staples. I think there's some specific matters in under agenda item 16 and previously, but we'll cover that with Mr.. Mr. Bond, You said? Yes. Fine. Thank you. Okay. Thank you. Um, bid wells.

00:07:14:05 - 00:07:22:09

Good morning, madam. I'm Christopher Bond, a partner in Bid wells, and I'm representing various clients and the land interest group.

00:07:26:19 - 00:07:29:21

Thank you, Mr. Bond. Savills.

00:07:31:18 - 00:07:33:21

Good morning, Jane Kenny from Savills.

00:07:34:01 - 00:07:38:09

Representing affected landowners. And I'm a member of the Land Interest Group.

00:07:42:12 - 00:07:44:12

Okay. Brown and coal.

00:07:46:26 - 00:08:06:06

Good morning, madam. I'm Jonathan Rusch from Brown and Co. I'm effect not affected. I'm looking after affected parties on this matter and the Board of Land Interest Group. I'm not necessarily intending to add anything because most of what I want to say will be covered by an interest group. But I would just like to be able to respond to anything that comes up. Thank you.

00:08:07:24 - 00:08:15:22

Thank you, Mr. Rush. Can I actually just confirm. Um, from both Wells and Savills.

00:08:17:07 - 00:08:20:17

Are you intending to speak under agenda item 11 and 13?

00:08:21:08 - 00:08:23:13

Sorry. Yes, I should have confirm that. I will be.

00:08:23:20 - 00:08:26:18

Thank you. Sorry, I should have confirmed it as well. Yes, please.

00:08:26:23 - 00:08:27:29

Thank you. Okay.

00:08:30:29 - 00:08:33:16

So practical. Ardent.

00:08:42:23 - 00:08:45:15

Okay. So don't think Mr. Ardant. Um,

00:08:47:18 - 00:08:50:03

the representation from Ardennes has joined us yet.

00:08:50:24 - 00:08:56:10

Okay. Have I missed anyone who is in attendance and wishes to introduce themselves?

00:09:00:13 - 00:09:01:22

No. Okay.

00:09:01:25 - 00:09:34:22

Right. So I'll move on to agenda item two. Um, to set out the procedure for running the hearing today. Uh, first, just a few words to acknowledge the format of the event. This is a blended event. It allows attendance both in person and virtually through Microsoft teams. It's expected that both blended and fully virtual events will form part of the planning Inspectorate's future operating model. We, the

examining authority, are attending this meeting from Holt, as are several of the attendees. For those attending virtually, please be rest assured that you have a full attention.

00:09:34:24 - 00:09:45:23

Even though we may not be looking directly at the camera at all times. Um. To avoid visual and noise distractions. Please keep your cameras and microphones off unless we invite you to speak.

00:09:48:08 - 00:10:07:25

The proposed timing of the day. We will take a 15 minute break at approximately 1130, a lunch break around 1:15 p.m. an afternoon break, around 3:45 p.m. with an aim to finish around 5:30 p.m.. Um, I will keep this under review and alter the timing slightly, depending on the progress we make.

00:10:09:18 - 00:10:42:05

The timings are approximate as it has happened in hearings last week. We are ahead of time in some agenda items and late and others. So if you are joining only for a particular agenda item, we recommend that you keep in touch with the case team so they can tell you if the sessions are running to to a different time than indicated in the agenda for virtual attendees. If you decide to leave the meeting during the breaks, then you can rejoin using the same link provided in your invitation email. And if you're watching the live stream, please refresh your browser to resume each subsequent session.

00:10:44:03 - 00:11:22:23

Um. I'd like to make you aware that this event is both being live streamed and recorded. The digital recording that we make are retained and published. They form a part of public record that can contain your personal information and to which general data protection regulation or GDPR applies. The Planning Inspectorate's practice is to retain and publish recordings for a period of five years from the Secretary of State's decision on the development consent order. Consequently, if you participate in today's compulsory acquisition hearing, it's important that you understand that you will be recorded and that you therefore consent to the retention and publication of the digital recording.

00:11:22:27 - 00:11:50:18

It's very unlikely that the examining authority will ask you to put sensitive personal information into the public domain. Indeed, we encourage you not to do that. However, if for some reason you feel that it is necessary for you to refer to sensitive personal information, we would encourage you to please speak to a member of the case team in the first instance, and we will then explore with you if there are ways for the information to be provided and written format which could be redacted before being published.

00:11:52:12 - 00:12:34:22

The next point is about the substantive matter for today. This is the first compulsory acquisition hearing. The agenda for this hearing was published on the Planning Inspectorate National Infrastructure Project webpage on Tuesday the 14th of March. Those are the only matters for discussion today. To be clear, it is not intended to discuss all matters relating to compulsory acquisition. Some matters will be pursued through rounds of written questions or future hearings. It is a full and ambitious agenda, Mr. Rennie, and will keep under review our progress and we may request certain aspects to be held over and addressed as part of your responses to the second round of second written questions, which will be issued on the 12th April 2023.

00:12:38:00 - 00:13:09:06

The final point is regarding post hiring actions should they arise. During this hearing, Mr. Wallace will be noting hearing actions as they emerge at the close of the meeting. We intend to go through the entire list of hearing actions which will then be issued as soon as practicable. The assumption is that post hearing actions will be expected at the next deadline. In this case, deadline three, which is

Tuesday, the 2nd of May. However, acknowledging any resourcing constraints on your end, if you fail, meeting that deadline will be difficult for you.

00:13:09:08 - 00:13:42:28

Please do raise that at the hearing itself so we can, if possible, accommodate that in the deadline set out in the post hearing action list. Given responses to written questions are also expected at deadline three. It is likely that we will place many or all of the post hearing actions in written questions if it is felt that would be appropriate and of course to avoid duplication. Um, that's all from me under this agenda item. If you have any questions to matters that I've just raised, please raise your hand.

00:13:46:18 - 00:13:48:10

Okay. Um.

00:13:48:28 - 00:13:57:03

Let's turn to agenda item three. I'm assuming everyone has the agenda in front of them, so I'm not going to read out the questions in full.

00:13:59:15 - 00:14:00:00

Um.

00:14:01:15 - 00:14:39:14

The first the agenda agenda item three is addressed to the applicant. Um, we would like to make reference to documents. We would like you to make reference to documents that are in the examination as you summarize your strategic case for compulsory acquisition and temporary possession. Just be aware that we've seen all of these documents, so brief summaries are adequate and we will of course highlight any specific points that we have questions for you. So for three one please can you demonstrate that the land is required for the development to which the consent relates? And if you could refer to land plans, special category, land plans and crown land plans in your response, that would.

00:14:39:16 - 00:14:40:01

Be.

00:14:40:28 - 00:15:05:05

Great. And it's just one point that we'd like to highlight that there are matters that are currently being explored in examination relating to the width of the cable corridor access arrangements and the concerns raised regarding the assessment of alternatives for landfill sites and substation. So we do not need to go into those matters again today. But just to highlight that those are live issues and the examination.

00:15:07:19 - 00:15:43:19

Thank you, madam. Jen Ashwell for the applicant. You'll be aware because you will have read the statement of reasons that we have set out our full case in terms of why we think the land is required for the development or is required to facilitate the development within that document. I would just draw your attention to certain elements of that document, say Section 7.1 of the statement of reasons sets out a description of how the land will be used by reference to the proposed development, and that's also included in Section eight.

00:15:44:26 - 00:16:22:13

There's also then further details, including reference to the different aspects of the development, such as the substation and landfall and cable corridor within Section 11.2 of that document, and think it's then necessary to read that document alongside the land plans, the work plans, the Crown land plans and the special category land plans, as well as the project description chapter of the environmental

statement, all of which come together to demonstrate why the land that has been included within the book of reference is required for delivery of the projects.

00:16:22:25 - 00:16:42:17

And so the applicant submits that it has satisfied the tests set out in section 1222 of the Planning Act. I would just add that the third limb of that test relates to replacement land. We don't have any replacement land within the book of reference so that that one doesn't apply. Okay.

00:16:45:17 - 00:16:46:17

Thank you, Miss Ashwell.

00:16:46:19 - 00:17:11:17

That's. That satisfies me. Um. Um, specifically with respect to the cable corridor, working easement and permanent easements and the fact that the width would change depending on the preferred scenario development scenarios that you have included in your application. Have you marked out how the land plans would differ for these different scenarios?

00:17:13:17 - 00:17:37:03

Jen Ashwell for the applicant. So at this stage it's not possible to identify exactly where within the joint order limits each, each project's cable will be laid and the precise location of the cables would be determined by the pre-construction surveys and investigations. And the cable corridor width therefore allows room for micro siting during detailed design.

00:17:40:05 - 00:17:58:05

And we have also included within table 11.2 of the statement of reasons, the impact of the different development scenarios on the use of compulsory acquisition powers to try and just explain how that differs depending on the scenario that's brought forward.

00:18:04:15 - 00:18:06:18

So if.

00:18:07:23 - 00:18:25:04

If you were going with a scenario where only one of the developments was being brought forward, then obviously the cable corridor with, as you've stated in your statement of reasons and in other application documents, the cable corridor width would be substantially less than what you would need if both the projects were being brought forward.

00:18:28:05 - 00:18:44:07

That difference is what I am asking, whether that needs to be marked up. The difference between 45m cable corridor and 60 to 100m cable corridor width under those scenarios, whether that needs to be marked up in inland plans.

00:18:46:02 - 00:19:16:11

Dan Ashwell for the applicant. Think. Think. The difficulty with depicting that on the land plans is at this stage we don't know exactly where within that cable corridor each project would go. And obviously it would depend on the scenario and the outcome of those detailed pre-construction surveys in terms of, you know, potentially micro siting around certain constraints where each project's cables will end up being laid.

00:19:16:18 - 00:19:36:10

Um, I think. In terms of depicting that on the LAM plans. There is precedent from other projects of just having that one wider cable corridor without having a, you know, a sort of center line for each project. So, for example, the Hornsea Project two included a similar approach.

00:19:37:06 - 00:19:47:27

I'll come back to that precedence point in a minute, but if the difference is between 45m and 60, if say, only one project was coming forward is the case for actually made.

00:20:27:10 - 00:20:59:07

Jen Ashwell for the applicant. I'm. I'm not sure we have too much more that we can add on this. Think just sort of to reiterate the point that the precise location of the cables won't be determined until post consent, and the draft provides both cell and Dell the two undertakers with the ability to construct, operate and maintain their cable circuit in any part of that onshore cable corridor. Um, we can consider whether it would be possible to depict that on a plan.

00:20:59:25 - 00:21:07:00

Um. But I think defining that at this stage of the process would be quite difficult.

00:21:07:09 - 00:21:42:22

So what I propose we do, Miss Ashwell, is that let me set out what our difficulty is for you. You're absolutely welcome to answer that now. But if you feel that you want to take that away, that's understood as well. But we would, you know, um, encourage you to tell us as much as you can today. So. So think our difficulty is the scenario if both projects were going ahead versus a scenario where only one of them was going ahead, and you've clearly stated that the cable corridor width would be substantially less if only one was going ahead and not just the cable corridor, but working easement and permanent easements would be different.

00:21:43:03 - 00:22:15:18

And so our difficulty here with respect to is that would then the case for be made for a width of 60m and in some cases 100m where you only require 45m. So that's the first point. Second. Should this be marked up with respect to. So that's that's a strategic point regarding CCA. The second point is, with respect to landowners, that the marking up of a land plan to identify where that difference might occur would affect different landowners.

00:22:15:20 - 00:22:25:18

And are those landowners aware that they might be affected like that if only one of the projects were to go ahead? So that's the second part of the question.

00:22:27:07 - 00:22:45:18

And the reason for asking you that is that if you say to a landowner that I'm going to take all of this land 60m with and in your case 100m with, and then you only take 45 or need 45, is there potential for blight and has that been taken into account?

00:22:51:26 - 00:22:53:17

Sorry. Julian Boswell for the applicant.

00:22:56:22 - 00:23:40:13

Just get going. The our case is based on the fact that we are putting two two projects into a single DCO, and that creates a range of uncertainties as to how that might play out, which we've addressed in the scenario statement. In terms of the compulsory acquisition case, it's always the case with the linear project that there is some amount of flexibility that's included. So even if this was a single project, there would be an oversized corridor to some extent to give flexibility and we would have we any developer in that situation would only take ultimately the land that they needed within the corridor and there would be some land inevitably that is unused.

00:23:40:15 - 00:24:17:11

So what we've got here is a combination or a slight variation on that theme where we've got two projects that are in the same DCO because we've been responding to various pressures on us to do that, and this is an inevitable consequence of doing that. And so we would say that our compulsory acquisition case is very much made out across both projects within that corridor because that is that's the only way that that can be done and that there's always a balancing act between the uncertainty that's created for landowners.

00:24:17:13 - 00:24:57:00

And we have tried to minimise the corridor to serve both projects in the way that we have. And in particular we haven't done what other projects did do, which was to put two completely separate haul road provisions into their DCS. That's if you look at that's the Dogger Bank model. We didn't follow that. That was a big judgment call and that has had benefit in terms of reducing the width and the uncertainty in terms of the sort of exercise of speculating about exactly how it might play out in the different scenarios we did think this through and the Planning Inspectorate were putting us, you know, under the Pre-application discussions.

00:24:57:02 - 00:25:29:24

This was one of the subjects that came up in the pre-op meetings with them. We just, as Ms.. Ashwell has already said, we just don't think that it's going to provide that, that we can sensibly do that, that it's actually going to provide useful information. Because if we're doing that, the next thing is, Oh well, can we, can we somehow secure that and so on and so forth. And the short answer is no. We need that flexibility. And we've thought very carefully about how we deliver the two projects within that single corridor and that and that is and that is what that is what we need.

00:25:30:08 - 00:25:58:09

So I think that that is what we are doing is an inevitable consequence of putting two projects into a single in the way in the way that we have. And we think that, yes, we accept, of course, that it creates uncertainty and different scenarios as to how it plays out and that the landowners who are on the receiving end of that uncertainty are, you know, are having to are having that imposed on them. But that is part of the balancing act for delivering two projects in this way.

00:25:59:11 - 00:25:59:26

Mr..

00:25:59:28 - 00:26:33:15

BOSWELL A lot of that is understood and I understand the the flexibility that you need. So, you know, the specific question, for instance, would be that if it is just you talked about an oversized corridor in order to provide you with the flexibility for micro siting, and that's understood, but if only one project were coming forward. From your application material. It appears that flexibility and the oversized ness of the corridor would be accommodated in potentially a 45 metre corridor width.

00:26:34:05 - 00:27:12:12

So there are two points here. One is that means that the strategic case for for the rest of the 15m and in some parts of the corridor for the rest of the 55m is potentially not made if only one of those projects come forward. Second is the implication for landowners, which you've actually explained right now. But the point still remains that has all those landowners aware that they will be affected in this particular way. So has the consultation been taken place with them being aware that this the implication could be as varied as that?

00:27:15:19 - 00:27:59:11

Julian Boswell for the applicant. I think I can't agree with your first point because inevitably the powers have to be granted at the start of the process and it's inevitably the case that nobody knows exactly what is going to happen and therefore we are providing for that uncertainty in the way that was drafted. And therefore we have to make the case now. And at the point that the decision is made

by the Secretary of State in due course. And so I don't see what else we could we could do that doesn't then effectively turn it into to to to to something that we've very, very specifically not done, which is to try to turn it into two applications within within within one.

00:27:59:16 - 00:28:35:18

Um, in terms of the, in terms of the position with the landowners. Um, I don't think it's well, I'm personally not in the front line of these negotiations, but I think it's very, very apparent to, to lig and they can speak for themselves, um, that um, that we are promoting two projects within a single corridor and that there are different scenarios because one of the issues that is in front of the, you know, the examination as we know already in writing and previous hearings, is the fact that, um, that we're under pressure to, to do a single build out.

00:28:35:20 - 00:29:08:08

And we've explained that we would love to be in a position to commit to that, but we're simply not in a position to commit to that. The corollary to that, of course, is that there may be a sequential build out, and I would hope that it was well, I'm sure it is obvious to to to to to the league representatives and their clients that that there is a scenario where one of the projects might not get built. I mean, if you actually look at the history of offshore wind in the UK to date, um, there are very, very few examples of projects that have been abandoned.

00:29:08:21 - 00:29:36:03

I'm really, I could only think of one immediately. Um, that scar with the Sands, which was around one project in, in South Wales, um, that had actually got consent as what I mean so, so you know the, the overwhelming likelihood we would say if you look at the history of, of of how the offshore wind market has developed is that both projects will get built. But we can't be sure of that. And it depends on market conditions, rules and all the rest of it.

00:29:36:05 - 00:29:36:24

Yeah, that's.

00:29:36:26 - 00:30:16:27

Understood. Mr. BOSWELL Whether the likelihood is small or big, it is a possibility in the and so it has to be considered as such. Um, I'm not satisfied with the response to the specific point about the strategic case and whether that flexibility that you need from construction terms in terms of micro siting would then be satisfied by a narrow corridor with, for a single project and how, given that there's a possibility in the for, for you to build just one, whether then that leaves a question for the case for for the wider um for the wider corridor width.

00:30:17:19 - 00:30:47:26

Madam, can I come back in again. I mean Julian Boswell for the applicant. I mean if there, if you, if you kind of fast forward through time in the scenario where one project gets built, then at that point there is going to be some uncertainty as to what's happening with the second project. But that first project is going to be built in a way that leaves room for the second project. Okay, that's inevitable. That would be that we can have overwhelming confidence in that.

00:30:48:09 - 00:31:34:01

What that then means is that there is the remaining part of the corridor that is available for the second project. If it happens, obviously there is a time limit in terms of the use of the compulsory acquisition powers and that is an absolute time limit. You don't, unlike starting a planning commission, of course, you don't just start using the powers and then you keep them all open. You've got to have used those powers in full within the time limit in the compulsory acquisition power in the DCO. And so and that is an entirely reasonable sort of feature of the regime generally, not just in the context that ensures that landowners know that when that data arrives, if those powers haven't been used, then they aren't going to use because they because they fall away.

00:31:34:24 - 00:32:04:05

And so in that situation, I think we have made our case out for both projects clearly, because as I say, that the scenario where. The scenario where a developer formally abandons a project. If you look at how valuable these projects are in the market at the moment, appreciate that. Can come and go a bit. But these are incredibly valuable projects. It is inherently unlikely that the second project would not happen.

00:32:04:09 - 00:32:04:27

Understood.

00:32:04:29 - 00:32:23:20

But we've talked about the likelihood and possibility case that, you know, no matter how unlikely that is, if that's a possibility in the year, then have to consider it. And especially if you're applying for a which which allows you gives you that ability to do that and just bring one project forward. Um.

00:32:25:21 - 00:32:27:01

So think.

00:32:28:18 - 00:32:30:06

Noting everything that Mr..

00:32:30:08 - 00:32:31:18

Boswell has just said.

00:32:31:27 - 00:32:49:25

And the point about that possibility, no matter how slim it is, that one project is abandoned and only one project is brought forward, the strategic case for in that scenario needs further justification.

00:32:55:17 - 00:33:21:26

There was one follow up question to that. Um, and this is with respect to landowners. Which landowners are affected? How are they aware and is there potential for blight for those landowners? Think a lot of these questions are kind of bundled together and you might want to respond to that together. But the follow up to that is that is there a likelihood that you start the process of temporary possession or compulsory.

00:33:21:28 - 00:33:22:23

Acquisition.

00:33:23:02 - 00:34:03:00

And then the development scenario changes? How would the landowners be affected then? If you recall in our discussion at issue specific hearing for and actually previously through written questions and the previous issues, specific hearings, we have talked about the that there isn't at the moment a point of no return. You can, for instance, make a decision on which is your preferred scenario and then change your mind on that matter. So if there is a process where, you know, is there a possibility that there's temporary possession, compulsory acquisition starts for a particular landowner, then you change your mind.

00:34:03:10 - 00:34:06:05

What will happen then to that particular landowner?

00:34:07:18 - 00:34:49:11

Boolean puzzle for the applicant. If those powers are used, they will. They will then incur compensation. Okay. And so again, the I accept that you're considering the the less likely scenarios, but clearly the normal scenario is that a decision is made to proceed with a project that if the powers are if it's necessary to use the compulsory powers because they haven't been secured voluntarily, then, um, then that involves, you know, there's a whole within a development team, there's a whole lead into that and everybody knows that as soon as you start using those powers, you're, you're, you're attracting compensation.

00:34:49:13 - 00:35:26:27

Once you've taken the powers, they are available to you. That's, that's how it, that's how it works. So if circumstances then change, then you're going to have taken those powers. And your the corollary to that is that you're paying compensation if if the project for some reason is going off in a different direction, then it's going to it's a bit hard to answer that precisely because it's going to depend on what that what that new direction is. But but the way the system is set up is that if we do actually exercise the powers and interfere with the landowner, they are being compensated in practice.

00:35:26:29 - 00:35:36:28

We're going to want any, any, any developer in that situation is going to want to to minimise the wastage if they're going off in a different direction.

00:35:37:00 - 00:35:48:17

So if you even if you did change your mind, at least the landowner would not necessarily be affected because they've been compensated. If you put if you did change your mind, then potentially the.

00:35:50:03 - 00:36:00:13

The wastefulness of the asset is something that you need the applicant would need to manage rather than having an adverse effect on the landowner. Have I understood that correctly?

00:36:00:29 - 00:36:20:26

Yes. But think Julian Boswell for the applicant. I think the other point is that in my working assumption, I'm a lawyer, not an engineer, is that there's every chance at the same land would still be being used. And so particularly when you're talking about the corridors here, I mean, we've we've we've only got.

00:36:22:28 - 00:37:02:22

Yeah, that there is a sense in which this is quite a simple project. We're talking about laying a number of cables in a corridor. Those cables are fundamental to the project. You have to obviously get the electricity to shore and into the grid. There are going to be cables within that corridor. And so if powers have been taken to facilitate one version of cables being laid in that corridor, from my perspective, just from what seems to me to be a common sense perspective, there is a very strong likelihood that those same powers may be being used, even if for some reason the version of the cables that are being laid has changed because it's responding to a different scenario.

00:37:02:24 - 00:37:38:04

So and there would be a strong commercial incentive on the part of of the developer or equinor to to make that happen because they're not you know, there's a there's a whole mass mobilisation that that would have come into being to sort of get to a point A if for some reason that gets put on hold and we move off in a slightly in a different direction. Um, there is going to be a strong incentive to, to, to reuse that or to continue to use that, albeit perhaps to a different, a different ultimate goal.

00:37:38:06 - 00:37:42:06

But it's still within the context of laying cables within a corridor.

00:37:43:19 - 00:37:45:06

Thank you. Um.

00:37:45:19 - 00:37:49:02

I will take questions. Ms.. Staples.

00:37:50:00 - 00:37:51:13

Would you like to come in at this point?

00:37:54:12 - 00:37:56:28

Thank you. Yes. Louise Staples for the National.

00:37:58:16 - 00:38:00:08

Farmers Union Land and Trust Group.

00:38:02:14 - 00:38:04:12

Sorry. You're getting feedback like am.

00:38:05:00 - 00:38:06:02

Uh, no, it's very.

00:38:06:04 - 00:38:07:03

Clear on our end.

00:38:08:03 - 00:38:08:22

Okay.

00:38:10:07 - 00:38:21:17

Um, I just wanted to raise that. We've raised this on, on other schemes within a compulsory acquisition hearing that think it's very clear, um, that.

00:38:24:05 - 00:39:19:24

To be given your compulsory acquisition powers. They're normally only exercised when the scope of the easement width is known. I think we know at the present time Ecuador don't know exactly what land they're going to need because they don't know which scenario is going to end up being built out. But think from a landowner tenant farmers position. What we need to secure is how do we make sure they only do take the land they need or whichever way they build out? And how do we get that clarified? Within the DCO because we don't want them to be able to take more land than they need or build a scenario which, um, ends up, yeah, uh, having more impact because of the longer term of, of construction.

00:39:19:26 - 00:39:26:02

So land taken for a longer time and I'm still not clear how we can reduce that and get that secured.

00:39:27:11 - 00:39:28:20

Thank you, Ms.. Staples.

00:39:29:01 - 00:39:33:17

I will take any other questions if there are from landowners before a hand back to the applicant.

00:39:38:03 - 00:39:39:27

Miss Staples, do you still have your.

00:39:39:29 - 00:39:40:23

Hand up or is.

00:39:40:25 - 00:39:41:10

That.

00:39:41:12 - 00:39:42:09

No, Sorry. I'll take.

00:39:42:11 - 00:39:43:01

It down. Okay.

00:39:46:08 - 00:39:55:18

I think what Ms.. Staples has asked is an extension or of, you know, what our concerns are. So if the applicant has anything further to add.

00:40:00:23 - 00:40:02:11

Apologies, madam. I didn't hear that.

00:40:03:02 - 00:40:15:26

I'm just saying that Miss Staples has just summarized or extended what our concerns are. Our concerns. So if you have anything further to add in response to her.

00:40:17:13 - 00:40:24:21

Julian Boswell for the applicant. Um, suppose I was asking myself when when Ms.. Staples was speaking. What?

00:40:27:04 - 00:40:57:08

What mechanism there would ever be in a CPO on the face of the CPO that meets her point. So I would like to reflect on it. But my my immediate response is that the way compulsory purchase works generally and including in a context, is that we that there is an. There is an inherent incentive on a promoter to take only the land that they need because they are paying more.

00:40:57:10 - 00:41:02:14

And I don't know, I've lost count of how many cpos I've advised on over the years. Can I just.

00:41:02:16 - 00:41:04:05

Clarify you're talking about rather.

00:41:04:07 - 00:41:04:28

Than CPO?

00:41:05:00 - 00:41:34:04

Well, it is. It's essentially the same thing. I mean, I don't know why it was called compulsory acquisition in the in the Planning Act 2008. But the principles and the point that Staples is making would apply equally to any type of compulsory acquisition or compulsory purchase. So sorry if I'm I'm not so I'm making a my point would apply equally to a development consent order as it would to a compulsory purchase order. Um, so i. I.

00:41:35:22 - 00:42:13:17

We've obviously explained what, what what widths we need for the different purposes, including permanent easement. Um, we have a commercial incentive not to take more than than we need where there is a, you know this these these issues are obviously also playing out in the context of the private negotiation that is taking place in addition to the compulsory acquisition position that we're obviously talking about today. So I'm not sure I can I'll reflect, we'll reflect on, on, on this point, um, and see, you know, whether there, whether there is any more comfort that we can give on it.

00:42:13:19 - 00:42:20:29

But um, as I've said, it seems to me to be a point that's hardwired into every type of, um, or CPO.

00:42:21:12 - 00:43:04:16

Um, I think Miss Staples point and what our point is that we, um, is for the scenario which is built into the application at the moment where only one of the projects is built. And our concern is that in that case, by your own admission, you do not need the full width of the cable corridor. And so, um, we quite simply the question would be that are you then saying that for the scenario where only CEP or DEP are built, this case then for that particular scenario is not made because you yourself said that you only need 45m with cable corridor.

00:43:06:26 - 00:43:43:09

Julian Bosworth, the applicant. No, because the reality is that when the first project is built, assuming it, it is built. At that point, it will not be known whether the second project is happening. But the overwhelming likelihood, I would say, for the reasons I've already mentioned, won't repeat, is that both projects are most likely to get built. And so I, I don't see how. Because the guess the next question is what? Imagine that I'm not agreeing with you, but imagine I did agree with you.

00:43:43:11 - 00:44:00:13

Oh, we've made a terrible mistake. We haven't actually made out our case for that. What happens then? What happens then is what's already provided for, which is that there's a time limit on how long you the second project can use the powers, and that time limit is on the face of the DCO. And if it kicks in, then so be it. We've lost those powers.

00:44:00:28 - 00:44:02:27

Yeah, but then you've not made your case.

00:44:03:07 - 00:44:04:10

To the Secretary of State that you.

00:44:04:12 - 00:44:05:11

Need the full width.

00:44:06:14 - 00:44:13:20

Even if you. Because we can only make the case for that for both projects now. So we are um.

00:44:14:01 - 00:44:15:13

Given what you know now.

00:44:15:28 - 00:44:48:09

Yes but, but, but we are, we are providing for. As you know, different scenarios. Perhaps it's almost misleading. Ta ta, ta ta. I was just going to. Well, hold on. Can I just finish that? The point the in some ways that the project eat one project happening on its own logically has to be there as a possibility, right? Even if in practice it is relatively unlikely for for the various reasons I've outlined.

00:44:48:20 - 00:45:21:17

Um, and so yes, because we're putting two projects into a single DCO. Yes, we've, you know, we had to we were concerned. The reason we wrote the scenario statement, um, was because we were concerned that there was the risk of confusion as to what the different possibilities were. And whilst it was the case, as we've explained in the scenario statement and in the statement of reasons that. Numerous other DCS mean at least three, maybe up to five now have done similar things to us, but didn't have a scenario statement.

00:45:21:20 - 00:45:53:19

And it was it was it was implicit. And it was it was clear that all those different things could happen with the exception of the integrated scenario, which is the one thing that is genuinely new about our DCO, that we thought that it was actually helpful. And we think it has on balance been helpful to have a single place where we've explained the different scenarios and we can reference that signpost that all the rest of it. But in the context of doing that, yes, one of those scenarios is that one project, whichever one might only ultimately be built, but at the point that we're having to justify the compulsory acquisition powers, which is now we we want to build both projects.

00:45:53:21 - 00:46:25:01

And so we've made a case for both projects. And if it falls away because the second project ultimately doesn't get built or sorry, the case doesn't fall away, but the powers fall away. That is the protection for, for the landowners. And in the end we have to meet the public interest test and show that there's a compelling case in the public interest for these powers. And we think that for the for the reasons that I'm explaining and the fact that we're having to operate within a market system, it's not if we were a nationalised industry, it might be a different ballgame then we're operating within a market system.

00:46:25:03 - 00:46:28:26

And and therefore, we actually have no choice but to do what we're doing.

00:46:30:18 - 00:46:37:02

That actually helps me more than your previous responses. So that's good that at the point what's.

00:46:37:04 - 00:46:38:10

What's helpful to know is.

00:46:38:12 - 00:46:40:14

That the point at which you start.

00:46:40:16 - 00:46:41:06

Or.

00:46:41:20 - 00:47:11:22

Get consent if consent is granted. Your intention is to build both projects and therefore the cable corridor with justification relies on that. Um, I do have several questions, follow up, but I will put them in written questions because I'm just very aware of time. Um, but just as long as we've made it clear that our concerns are relating to both matters, the strategic case for compulsory acquisition under the various scenarios and the effect on landowners.

00:47:11:24 - 00:47:13:11

So we'll follow up under.

00:47:13:13 - 00:47:15:28

Both of those strands. Okay.

00:47:16:00 - 00:47:22:17

Um, if there are no further questions from anyone at the hearing that I'm going to move on to three two.

00:47:25:18 - 00:47:26:09

Okay.

00:47:26:22 - 00:47:27:25

So for three to.

00:47:28:29 - 00:47:30:02

Can you explain.

00:47:30:04 - 00:47:44:09

To us how you've explored all reasonable alternatives to and and we want responses in two areas here. One, what efforts have you made to reach voluntary agreements so, you know, refer to the various progress update tables you've.

00:47:44:11 - 00:47:44:27

Got in.

00:47:44:29 - 00:48:21:19

Your in the examination so far. You've got the compulsory acquisition set schedule, the applicant statutory undertake a position statement and the open space agreement. So just summarize for us what efforts you're making to reach a voluntary agreement. And the second point is, have you considered making modifications to the proposed development again? This is a brief summary that we require and if you want to refer to any specific cases, either relevant reps or any written reps that are in the application where you've had to respond to that specific point, then please do.

00:48:23:16 - 00:48:55:00

Jen Ashwell for the applicant. I'll start with the second point first, if that's okay, because think it will be quicker just to cover that one off. Yeah. Um, so during the development of the design of the projects and at the pre-application phase and during site selection, impacts on affected landowners were considered as part of this process and during direct discussions with landowners and their land agents. Um, boundary proposal, um, were put forward by some of those potentially affected by the proposed onshore development area.

00:48:55:02 - 00:49:25:01

And the applicant has been able to incorporate a number of those suggestions into the onshore elements of the order limits and has certainly sought to do so wherever that's been feasible. So think in terms of addressing that point, yes, we did make modifications to the, um, the onshore order limits in the Pre-application stage as a direct result of discussions with, with those affected parties. Um, and then coming back to the, the first point.

00:49:25:26 - 00:49:58:18

Um. I think. Probably also just a couple of things to flag in. In terms of the alternatives to compulsory acquisition. The applicant has sought wherever possible to minimise the use of compulsory acquisition powers. So for example, we've included temporary possession or rights where permanent acquisition is not thought to be justified. Um. And I think the only area that we're actually seeking permanent acquisition of is the substation and the surrounding area.

00:49:58:20 - 00:50:29:21

So we have sought to minimize the interference with with landowners wherever possible. And also just, um, which sort of links back to your first point, but I'm not going to revisit that in full. But the

single cable corridor for both projects does reduce the overall land required for the development as opposed to if the two projects were coming forward under separate DCS say that has reduced the number of people affected in the area of land affected by the projects.

00:50:30:27 - 00:51:05:00

Um, in terms of the voluntary agreements. Um. To date, 86% of landowners have signed heads of terms with the applicant and think we were due to give an update on the latest position later on in hearing. But think if I just hand over to Simon Hinchcliffe, he'll be able to sort of run you through a sort of brief history of of the engagement that the applicant has had with, with the landowners.

00:51:05:02 - 00:51:06:28

If that would be helpful at this stage, it.

00:51:07:00 - 00:51:10:26

Would be very helpful. But just in terms of process because we're going to cover that.

00:51:10:28 - 00:51:13:17

But you know, a little bit more specifically later on.

00:51:13:19 - 00:51:25:15

Yeah. Think Simon, if you could just start by outlining sort of how the Land Interests Group works and how that's enabled us to engage with these parties.

00:51:25:27 - 00:51:26:12

Okay.

00:51:26:28 - 00:52:06:11

SIMON Actually, for the applicant. So yeah, we have been engaging with the group since January 2020. That's when we had our first meeting to introduce ourselves. And the lead group represents around 70 landowners in total. There's a few changing numbers, but at last count was around ten members of the lead group in total, and McLaren as a firm of engaged with on previous projects in this region. And we're clear benefits there. So we've worked on them here. So over the last three years we've been negotiating with a number of different agreements for non-intrusive survey access, intrusive survey access, and there's been clear benefits of working them as it helps to ensure that consistency and fairness across the board.

00:52:06:13 - 00:52:44:14

And those same agreements can then be rolled out to landowners not represented by legal representative by other professionals as well, not part of the group. This is then been carried on with work on the head of terms negotiations. So we've met with them face to face over teams, several catch up meetings to run through heads of terms and naturally whilst negotiating land rights, there are areas of disagreement, but I think the numbers do demonstrate that the joined up approach has been a successful one and there have been clear benefits of that. And as with the licenses, we've also then use those same set of terms that have had a lot of professional time gone into them across the board, landowners that don't have representation as well.

00:52:44:16 - 00:53:14:16

Okay. Um, so many follow up on that. They have also brought to the table a single firm of solicitors that would represent most landowners. We are currently in the process of negotiating and a base form of option agreement with those solicitors that once ready can be rolled out across the board, hopefully expedite exchange and completion of agreements to. So that's just a short summary of what the engagement with league has been on with landowners as a group. But on top of that there has been

that 1 to 1 interaction for landowners specific matters as well with each respective member of the group.

00:53:14:29 - 00:53:17:28

And just, um, just so that we can understand.

00:53:18:00 - 00:53:25:13

How many landowners are not part of the land interest group, how many are there and have you engaged with all of them?

00:53:25:18 - 00:53:30:19

Simon Hinchcliffe For the applicant there are 1313 and yes, we've been engaging with them throughout, Yeah.

00:53:32:28 - 00:53:44:08

And Madam, I think just to add to that, Appendix one to the statement of reasons does include a sort of a history at the pre-application stage of our engagement noted with landowners.

00:53:45:04 - 00:53:52:29

Um, yeah, that satisfies me if there are any questions from my colleagues. Okay. Any questions from the floor?

00:53:55:22 - 00:53:57:26

Good. Okay. Um.

00:53:58:15 - 00:53:59:17

Can't get on quick enough.

00:54:00:27 - 00:54:01:24

Hello, Miss Staples.

00:54:02:21 - 00:54:14:01

Sorry. Louise Staples from the National Farmers Union. I don't know whether you'd like us to raise some things now or would you like it to be done later when you're asking more to hear the detail?

00:54:16:11 - 00:54:17:09

Ms.. Staples I think.

00:54:17:11 - 00:54:31:17

It would be better to wait until that point. It's a really loaded agenda today, so I'm being quite strict and I'm aware that you might not be there at that point. But if whoever's representing the land interest group could raise specific points on the agenda, item 11, I think then that.

00:54:31:19 - 00:54:32:04

Would be really.

00:54:32:06 - 00:54:32:21

That's fine.

00:54:32:23 - 00:54:37:03

Yeah. Okay. Thank you. Okay. Thank you. Okay. So agenda item.

00:54:37:05 - 00:54:53:14

Three three is summary of reasons why compulsory acquisition and temporary possession rights to be acquired are necessary and proportionate. And think a lot of what you've done for agenda items three, one and two. Does that is there anything in particular that you'd like to add to that justification?

00:54:55:00 - 00:55:35:23

Madam, think just one point that we probably haven't touched on yet is why it's necessary to have those compulsory purchase powers available to the applicant. And as as Simon has already set out, we are making very good progress with negotiations. But obviously there's no guarantee that all of the land and rights available for the project will be capable of being acquired on a voluntary basis and obviously that is the applicants preference. But we would submit that the compulsory acquisition powers are necessary in order to ensure that all of the lands and rights required for the project can be assembled and that the projects can be delivered in a timely manner.

00:55:37:28 - 00:55:39:24

That's understood, Miss Staples.

00:55:41:05 - 00:56:19:00

Thank you. Louise Staples for the NFU and Lig. And I just want to raise one point here, um, that we really do not think, um, that the rights they, they need are necessary. Um, and that's due to them still requesting that they are asking for rights and perpetuity when we've been given no explanation as to why that's needed. And we've asked could they not just take a 99 year time limited rights which we've agreed on many other projects, but as I've just said, nothing has yet been forthcoming to try to agree.

00:56:19:02 - 00:56:21:20

That will give us a reason as to why that's not possible.

00:56:22:04 - 00:56:22:19

So, Ms..

00:56:22:21 - 00:56:35:05

Staples, that is an item on the agenda, item 16. Um, so if it's okay, we will put a pin on that question. APPLICANT And we will of course have an opportunity to respond on the agenda item 16.

00:56:38:00 - 00:56:50:07

Okay. Sorry. Thought you would. This point definitely does say your question is about whether the rights are necessary and proportionate. So we are definitely saying they are not necessary and they are not proportionate. Thank you.

00:56:50:22 - 00:56:53:03

Do you want to respond to that specific point?

00:56:54:03 - 00:56:55:19

Julian Boswell for the applicant.

00:56:57:06 - 00:57:28:28

We have to think it's important to remember that this hearing is about the compulsory acquisition powers. And the powers in a DCO or a compulsory purchase order are in perpetuity and there isn't a legal ability to limit them. And I don't think there's any example of them being limited for an easement. And so as far as the compulsory acquisition position is concerned, that is there is nothing to discuss, they will be in perpetuity and that is the absolute norm in terms of.

00:57:29:02 - 00:57:39:09

So the Staples is actually raising a different point, which which I think from what you're indicating belongs in the the latest session.

00:57:40:29 - 00:57:48:00

Ms. Staples, If you're still there, I think I think that's what I'd like to understand.

00:57:48:02 - 00:58:06:21

Is if besides the point about seeking rights for in perpetuity rather than for 99 years, besides that point, if you feel there are reasons why the powers that are being sought by the applicant that are not necessary or proportionate.

00:58:09:01 - 00:58:23:13

But no, that's my main thing. Sorry. That's where we raised it before with other legal representation in other hearings. We've raised it under whether the rights are proportionate or in, you know, in the interest. So that's why I've raised it here.

00:58:23:19 - 00:58:24:29

So that's yeah, we will.

00:58:25:01 - 00:58:32:13

We will cover that under agenda item 16, where I'll go into that in a bit more detail in terms of precedents and.

00:58:32:15 - 00:58:37:25

So on. Okay. Thank you. Okay. Thank you, Ms.. Staples. Um.

00:58:39:13 - 00:58:42:14

So that is agenda item three three.

00:58:45:00 - 00:58:49:00

Right. Um. Agenda item three for.

00:58:54:29 - 00:58:57:03

Urgent. Item three four. Um.

00:58:59:14 - 00:59:10:10

Can you please summarize your case to demonstrate the need for the proposed development? And this can be a very brief and succinct summary if you can refer to the relevant paragraphs in the NPS as well.

00:59:10:19 - 00:59:12:06

In responding to that question.

00:59:15:28 - 00:59:46:11

Ten. Well, for the applicant, madam, I'm afraid I don't have the relevant paragraph references at the moment, but I suppose the starting point is that this is a nationally significant infrastructure project. The need for the project has been established within the suite of energy and is. Um. We would therefore submit, you know, that that that shows the there is a clear public interest in bringing the development forward.

00:59:46:15 - 01:00:01:16

We've obviously set out in detail in both the statement of reasons and the planning statement, the various benefits that the projects will bring. Um, I can run through those in a sort of bullet point list, but I'm sure you'll be aware of the detail.

01:00:02:00 - 01:00:06:23

Yeah. Miss Ashley, we've. We've read that and that's fine. I guess my specific question at this point.

01:00:06:25 - 01:00:07:14

Would be.

01:00:07:16 - 01:00:30:16

That is there a need set out in the for you to demonstrate the need for offshore wind income as a for offshore wind with respect to other offshore wind proposals or projects that are, you know, in the pipeline, is there a need in the for you to demonstrate that need on account of that?

01:00:58:19 - 01:01:16:00

I'm Jen Ashwell for the applicant, Madam. Think the is clear that a variety of different renewable sources is required in order to meet the various government targets for energy supply and production.

01:01:23:19 - 01:01:34:22

I think paragraph 96 of the planning statement might assist here. I'm just bringing it up. Now, I've just been passed a note by one of my colleagues.

01:01:59:24 - 01:02:09:01

They made him think at paragraph 96 of the planning statement, you'll see that we've set out by reference to the various sections of the NPS.

01:02:11:20 - 01:02:19:05

The need for this particular type of development to come forwards. Does that address a question?

01:02:19:07 - 01:02:21:08

I don't have the planning statement in front of.

01:02:21:10 - 01:02:22:03

Me, but I.

01:02:22:05 - 01:02:25:03

Will. I'll take that down as your response.

01:02:26:17 - 01:02:31:05

And if you have follow up questions, I'll come back with it. Yeah. Thank you. Um.

01:02:39:24 - 01:02:44:19

I'm just mindful of time, so I'm going to leave agenda item.

01:02:44:24 - 01:02:45:15

Three.

01:02:45:17 - 01:02:51:24

For be. Um, and ask it specifically in written questions.

01:02:53:12 - 01:02:54:04

And I'd like to.

01:02:54:06 - 01:03:00:08

Wrap up the next few agenda items, next couple of agenda items in the next few minutes.

01:03:02:19 - 01:03:06:11

So unless the applicant has anything further to say, I'm going to move on to agenda item four.

01:03:08:11 - 01:03:10:09

Yep. Okay, so agenda item.

01:03:10:11 - 01:03:34:22

Four is about human rights, and I'm focusing on articles eight and six of the European Convention of Human Rights and Article one of the first protocol. Um, so, applicant, do you have any reason, is there a reason to or is there any areas that you want to highlight specific cases where interference of human rights needs to be brought to our attention?

01:03:35:22 - 01:04:06:16

Jen Ashwell for the applicant. I think in a in a word, no. Okay. Um, we would submit that Article eight doesn't actually apply in these circumstances because that would usually, um, apply if we were seeking compulsory acquisition powers in relation to private dwelling houses and we're not actually doing that in these circumstances. So, um, we don't think that Article eight is, is relevant here. Um, Article six obviously deals with right to a fair and public hearing.

01:04:06:21 - 01:04:32:20

Um. All affected parties have have had and continue to have the opportunity to make representations. So we would submit there's no infringement of that article. And then in terms of Article one of the first protocol, there is a public interest test within that. And think we've already we've already sort of discussed that within the context of agenda item three. So unless you want me to expand on that, then I'll leave that there.

01:04:32:24 - 01:04:34:03

No, that's fine.

01:04:36:08 - 01:04:38:24

Um, does anybody have questions from the floor?

01:04:43:29 - 01:04:46:04

Okay. I'm happy to move on to.

01:04:46:06 - 01:04:46:22

Agenda item.

01:04:46:24 - 01:04:47:15

Five.

01:04:48:01 - 01:05:03:21

So in agenda item five, which is Equality Act, um, I'd like to focus on sections 4 to 12 and section 20 of the Equality Act 2010. And again, my question is the same as before. Are there any specific cases that you'd like to highlight?

01:05:04:10 - 01:05:04:25

Um.

01:05:08:18 - 01:05:45:19

Yeah. Nashville for the applicant. As you'll be aware, imagine sections 4 to 12 of the Equality Act list out the various protected characteristics. Section 20 includes the duty to make reasonable adjustments. Um, we don't think that section 20 applies to the applicant in the context of this application. Um, however, we have sought to conduct all stages of the application process so as not to exclude any groups with protected characteristics. For example, the applicant has hosted virtual events and exhibitions for those that might not be able to attend in person.

01:05:46:15 - 01:06:22:08

UM offered to provide documents in different formats, held events at accessible and convenient venues, and ensured that all website material passes certain accessibility checks also during the Pre-application stage and the consultation on the projects, the applicant sought to engage with those harder to reach groups, which can often overlap with those that have protected characteristics. Um, I think that's that's probably all we wanted to say at this stage, unless you had any further questions, madam.

01:06:31:12 - 01:06:36:21

Um, sorry, can you just also just explain why you think Section 20.

01:06:36:23 - 01:06:39:14

Of Equality Act 20 does not apply to the applicant?

01:06:40:16 - 01:07:16:17

Jen Ashwell for the applicant say Section 20 applies in certain circumstances which are then set out in the remainder of the act. So if I just sort of go through the list, they schedule two of the act that applies to service providers and those exercising a public function. We don't believe that we fall within that category. Schedule four applies in relation to premises. So for example, if you were a landlord letting out premises, schedule eight applies in a work and employment context. Obviously the applicant is an employer, but not in the context of this application.

01:07:16:22 - 01:07:29:29

Um, Schedule 13 applies to education, which again we would submit is not relevant. And schedule 15 applies to associations which again we would submit doesn't apply in this in this context.

01:07:30:09 - 01:07:34:18

Okay. Thank you. Ms.. Ashwell, does anyone have questions from the floor?

01:07:36:24 - 01:07:46:04

No. Okay. Well, I'm satisfied with that. I'm happy to move on. Yep. Okay. I'll hand over to Mr. Rennie for agenda item six.

01:07:49:18 - 01:08:08:06

Hey. Hello. Um, yeah, I've got some questions about the funding statement. Um, firstly, um, these are for the applicant. Um, are there any updates to the funding statement necessary or likely to be needed in the near future? Um, is an update, for example, on the accounts that would be needed.

01:08:10:20 - 01:08:41:22

Dan Ashwell for the applicant. We're not aware that any updates need to be made to the funding statement at this point in time. Um, we've obviously submitted a non-material change which removes some land from the order limits. Um, but that would result in a fairly negligible, negligible change to the property cost estimate. And so we haven't updated the funding statement for that purpose. Um, you'll be aware that the applicant is intending to submit a material change application shortly.

01:08:42:01 - 01:09:00:21

Um, there is a requirement under the compulsory acquisition regulations for us to submit a funding statement with that request. So we will be putting something in, although it's not anticipated that there would be any material changes to the property cost estimate as a result of that change.

01:09:03:09 - 01:09:19:20

Okay. Thank you. Um, looking at the the funding statement that came in. Um, would Equinor New Energy Limited have full access to the financial resources shown in the consolidated accounts for Equinor, the parent company? And is there evidence of this?

01:09:31:20 - 01:09:42:01

Jen Ashwell for the applicant. I just wonder if we could come back to you on that particular point slightly later in the hearings, if that's okay. We would just need to to double check that.

01:09:43:00 - 01:09:58:17

Okay. Thank you. Yes, that's fine. We'll come back to that point. Um, just a quick question as well. The I notice the air is majority owned by the Norwegian government. Is that still the case and is that likely to continue? There's no anticipated change on that.

01:10:00:01 - 01:10:03:27

There are Chandler for the applicant. Yes, that's still the case and we don't expect any changes to that.

01:10:05:28 - 01:10:36:01

Thank you. Um, moving on to what's been referred to as an extension limited. It's owned by three entities, as far as I can see. Ecuador, New Energy Limited Mazda, Offshore Wind and Power UK Limited about 3,035% each. Um, how will this arrangement affect the funding in relation to the budget extension and how can we be assured of sufficient financial assets by Mazda and power being available?

01:10:38:18 - 01:11:10:18

Jen Ashwell for the applicant. I think the starting point in terms of the purpose of the funding statement is that it's intended to provide the examining authority in the Secretary of State with sufficient certainty that the funds are available in relation to compulsory acquisition. We believe that we have set that out within the funding statement and that there isn't a need to rely on the resources of those shareholders in order to demonstrate that funding aspect.

01:11:13:29 - 01:11:25:02

So if, for example, my power default to withdraw from the project, um, equinor would still have the resources to fund both the project and the liabilities.

01:11:27:10 - 01:11:41:01

Julian Boswell for the applicant. So just stepping back for a moment, I mean, the the funding statement does do what Ashwell has just described, and there's a provision in the that limits. This is obviously.

01:11:42:23 - 01:12:25:18

Such an extension. Limited and extension limited are special purpose companies which don't have an, you know, material assets at this time. And so we're following a particular model that has been followed many times before in terms of developing offshore wind and many other types of energy projects and other types of infrastructure. There is a protection in for. So there are there are two issues. Are are those companies ultimately going to be good for the money if they start exercising compulsory powers and incurring compensation obligations? Answer Yes, particularly because of the

protection that's in the that says that we have to provide a security or equivalent to the satisfaction of the designees team.

01:12:25:20 - 01:12:59:25

The what was the base team before we can use the powers so that has that is a mechanism that has evolved during the process over the last ten years and is now the established mechanism. We have obviously put in information about the the financial status of the owners of of the project as well and think that gives some additional comfort as to who is sitting behind the projects in terms of the main funding. And we will come back further after the break or at lunch, depending on who we need to speak to.

01:12:59:27 - 01:13:30:19

Your question about access to to to funding, again, we're we're there's only so much that anybody can say about this type of project financing at this time. I guess the main point we're making is that there is an established process for project financing projects of this kind. The the one of the absolute prerequisites of that, as you will have gathered from from the examination so far and, and the paperwork is, is is the CFD.

01:13:31:02 - 01:14:09:06

And then there's a whole industry that exists to bring together, um, the funding for these projects as a combination of equity and, and debt. And that is what leads up to the financial investment decision. So I think the most that we can do or anyone in our pursuing this model can do is to explain that model to you further. If that is helpful to, to, to, to, to, well, potentially to, to list other projects that that have successfully followed that model of which there are many and we can limit ourselves to offshore wind for obvious reasons.

01:14:09:08 - 01:14:39:12

But there are lots of other examples as well. Um, in terms of the, the, the, I guess if there is a, if you look at who the owners are, there are three current owners of debt and equinor have taken over the for the time being the full ownership of of of set. Yes. But the the previous owners have the right to come back in at the point of financial close.

01:14:39:14 - 01:15:11:25

Each of those entities is a substantial entity. They vary obviously Equinor, as you say, is state owned. Masdar is a huge Middle East based. I have no idea what their scale of their assets are, but it's absolutely enormous and so on. And we can, if there's more information beyond what's in the funding statement already to provide, we can. But I think the core point is that there's an established project finance model which will be followed on this on this occasion. And the most recent example of that directly involving Equinor is what's happening.

01:15:11:27 - 01:15:35:05

And it may be helpful if we do put in a little bit on this, but not very much because I don't think you'll need that much is what's happening in relation to to the Dogger Bank projects. So there are three projects on the Dogger Bank which Equinor owned with they may actually now be 1 or 2 other shareholders in the mix, but principally with and those are now have been funded pursuant to that model and are in the construction phase.

01:15:37:21 - 01:16:08:15

Okay? Yes, thanks. Think it's just there's obviously talk about these other companies, but there wasn't a lot of information about them as submitted by Equinor, etcetera. So, I mean, it did notice that the it says that the applicant would have compulsory acquisition liabilities. That's what it seemed to be suggesting, the funding statement. So that wouldn't be Mazda power contributing towards those. That's how it sort of was suggested in the funding statement. Is that is that about right?

01:16:08:18 - 01:16:32:16

Dan Ashworth For the applicant, it would be the undertaker under the that would have the compensation liabilities rather than the applicant. And you'll be aware that there's a distinction between these parties say sell and Dell or scary extension limited and Dutch and extension limited are the undertakers who would incur that liability. And that's why we've provided the background in terms of that company structure within the funding statement.

01:16:34:12 - 01:16:39:21

And second, just add there, that's why you have Article 40, which Mr. Boswell was alluding to, which.

01:16:40:17 - 01:16:48:13

Restricts the exercise of compulsory purchase powers by either sell or Dell until there is submission and approval of.

01:16:49:15 - 01:16:57:00

Basically to to confirm that that funding is in place for covering the compensation. And that is the the way that that is secured through the DCO.

01:16:58:08 - 01:17:25:10

Okay. Thank you. Um, moving on to another question. Um, just a question of whether the funding statement is taken into account. Possible variations in timeframes for construction of the project. Would such variations make a difference to funding and also the anticipated cost of the development project itself? In other words, what did the funding statement figures assume for calculating the project costs and costs anticipated?

01:17:28:20 - 01:17:49:26

Jen Ashwell for the applicant. You'll be aware, sir, from paragraph 33 of the funding statement, that the cost estimate we've given is a rather large range. Um, say, yes. We did take into account the various different circumstances and timescales that could be factored in to that overall cost estimate.

01:17:50:20 - 01:17:55:29

Would that make any difference to the what was necessary for compulsory acquisition as well?

01:17:58:21 - 01:18:21:20

Dan Ashworth for the applicant think we're probably talking about two different things. So one is the overall cost of the project. Yes, and one is the cost of the compulsory acquisition. The there's a detailed property cost estimate which was appended to the funding statement which sets out the um, the details of the compulsory acquisition costs. Um.

01:18:22:25 - 01:18:23:25

They included.

01:18:24:06 - 01:18:30:08

They sort of factored in the various different scenarios. And it's very much based on a worst case scenario.

01:18:31:24 - 01:18:34:10

Which worst case scenario would that be that it was based on?

01:19:11:23 - 01:19:45:09

Uh, Simon Hinchcliffe for the applicant. So the property cost estimate has been prepared, one each for Del and for sell. Yeah. Um, they are prepared on the basis that the projects are built on their own. Um, so if built, we have the estimate of cost for that. And if CEP is built the estimates cost for that combined. If the two projects are built concurrently or sequentially, the cost would amount to less than to single build scenarios added together.

01:19:45:18 - 01:19:52:02

The total cost of the two projects being built together would amount to a lower sum than the total of the two PCs.

01:19:52:04 - 01:20:05:15

And does the time frame of construction come into that? The say, for example, does it make a difference if there's quite a if they're built sequentially with a sort of large time gap in between?

01:20:07:09 - 01:20:15:15

There is contingency built into there. But ultimately, no, it's not anticipated that such a gap would result in any issues at all.

01:20:16:03 - 01:20:20:07

No. No significant change in the figures? No. Okay.

01:20:22:05 - 01:20:25:21

Um. So just, um.

01:20:27:24 - 01:20:42:11

Last question then, just just to overall, just to whether you could confirm that there is adequacy of funding readily available to enable the compulsory acquisition to proceed within the statutory period following an event of an order being made. You're still comfortable with that.

01:20:42:22 - 01:20:44:13

At all for the applicant? Yes.

01:20:45:29 - 01:20:53:27

Okay. Does anyone else have any comments on. The funding of compulsory acquisition. Part of this agenda item.

01:20:57:08 - 01:20:57:23

Nope.

01:21:06:13 - 01:21:10:08

Okay. We'll look to have a break now. Um. Oh, sorry.

01:21:10:19 - 01:21:41:16

yes, Jane, can you Saville's just an observation on following Mr. Hinckley's last comment with regards to contingency. I'm a little concerned to say that they don't anticipate there to be, um, an uplifting course if there is a, um, a delay between constructing first project and second project. We are we're seeing it a lot and hearing a lot at the moment, especially in the press with regards to the cost of materials, etcetera.

01:21:43:03 - 01:21:43:20

Thank you.

01:21:44:25 - 01:21:46:09

Does the applicant respond to that?

01:21:56:25 - 01:22:15:00

Yeah, well, for the applicant, I think the the point that Ms.. Kenny has raised is more in relation to the project cost and the cost of constructing the project rather than the cost of compulsory acquisition to the applicant, which is what is set out within the the property cost estimate.

01:22:17:27 - 01:22:19:14

Miss Jenny can clarify that.

01:22:19:16 - 01:22:21:07

Actually, you talked about.

01:22:22:12 - 01:22:23:27

Your concerns about.

01:22:23:29 - 01:22:33:25

The applicant's comment about not anticipating an uplift in cost. Are you talking about and you mentioned cost of materials.

01:22:36:00 - 01:22:38:24

Correct in terms of the cost of construction.

01:22:39:25 - 01:22:45:03

But that would not affect their estimates for compulsory acquisition and temporary possession.

01:22:46:09 - 01:22:47:01

That's the applicant's.

01:22:47:03 - 01:22:55:04

Position that they they don't anticipate. If there was a delay, they don't anticipate an uplift in.

01:22:55:06 - 01:22:56:14

Property costs.

01:22:57:02 - 01:22:58:07

Or their estimates of.

01:22:58:09 - 01:22:59:08

Property costs.

01:23:00:25 - 01:23:09:18

I accept that point. But think in the round. Okay. Think there would be an uplift in the overall funding required to deliver the project? The projects?

01:23:09:20 - 01:23:11:27

Understood. Okay.

01:23:14:07 - 01:23:23:06

So, yes, nice as anything else. Um, we can have a break now and maybe return at 1135. Let's go with Evan.

01:23:26:20 - 01:23:27:27
Hey, during the hearing.