



Hearing Transcript

Project:	Five Estuaries Offshore Wind Farm
Hearing:	Compulsory Acquisition Hearing 1 (CAH1) – Part 1
Date:	17 September 2024

Please note: This document is intended to assist Interested Parties.

It is not a verbatim text of what was said at the above hearing. The content was produced using artificial intelligence voice to text software. It may, therefore, include errors and should be assumed to be unedited.

The video recording published on the Planning Inspectorate project page is the primary record of the hearing.

Five Estuaries_Wivenhoe_17 Sept_CAH1_PT1

Created on: 2024-09-17 13:23:47

Project Length: 01:35:28

File Name: Five Estuaries_Wivenhoe_17 Sept_CAH1_PT1

File Length: 01:35:28

FULL TRANSCRIPT (with timecode)

00:00:04:17 - 00:00:07:22

Good afternoon everybody. It's now 230 so.

00:00:11:00 - 00:00:13:05

I'll see. Acquisition hearing one.

00:00:15:07 - 00:00:17:23

Can I confirm that everybody in the room can hear me?

00:00:19:11 - 00:00:25:22

Yeah. And for those who are attending online, can you hear and see everything in the room?

00:00:26:17 - 00:00:27:11

Yes.

00:00:28:00 - 00:00:28:15

Thank you.

00:00:32:10 - 00:00:37:18

I'm kind of checked the case team that the live streaming and recording have both started.

00:00:38:19 - 00:00:42:12

I can confirm that the livestream and recording has commenced. Thank you.

00:00:44:01 - 00:00:55:26

I'd like to welcome everybody then to compulsory acquisition hearing one concerning the application. Um, for an order granting development consent for the proposed five estuaries offshore wind farm.

00:00:57:15 - 00:01:11:14

My name is Graham Gould. I'm a charter town planner and an examining inspector with the Planning Inspectorate. I've been appointed by the Secretary of State to be the lead panel member, comprising the examining authority that would be examining this application.

00:01:13:18 - 00:01:28:29

I'm going to hand over to colleagues shortly to introduce themselves. My colleagues will do most of the introduction to this session because I'm going to be leading and the hearing afterwards. So thank you. It's normal. This is normal.

00:01:30:14 - 00:01:38:12

Good afternoon. My name is Rebecca Norman. I'm a chartered town planner and an examining inspector. I've been appointed as a panel member of the Examining Authority.

00:01:40:20 - 00:01:53:13

Oh. Good afternoon. My name is Felicity Weber. I'm a chartered planner, town planner, and an examining officer of inspector. I have been appointed as a panel member of the Examining Authority.

00:01:58:05 - 00:02:07:03

Good afternoon. My name is Matthew Herron. I am a chartered town planner and an examining inspector. I have been appointed as a panel member of the Examining Authority.

00:02:09:02 - 00:02:39:12

Good afternoon everyone. My name is Mark Harrison. Um, I'm also a chartered town planner and an examining inspector. I've also been appointed as a panel member of this examining authority. So our role is to examine the application and to report to the Secretary of State for Energy Security and net zero, with a recommendation as to whether or not the development consent order should be made.

00:02:40:01 - 00:03:18:11

At this point, I'd also like to introduce the members of the planning Inspectorate's case team who are supporting us today and sitting at the back of the room. You may have already spoken with them. We have Kjaer Johansson, case manager for this project, and Ramil Birney, the case officer for this project. In addition, technicians from the audiovisual company C-v-s International contracted by the applicant, are in attendance solely for the purpose of managing the recording and live streaming for this hearing.

00:03:18:28 - 00:03:54:04

I'll now very quickly cover a couple of housekeeping matters. Um, could everyone in the room please set all devices and phones to silent? Um, toilets are located out of the rear doors to this room. Back down the corridor to the stairwell, heading towards reception. Um. Fire alarm. Nothing planned. But in the event of an alarm sounding, please follow the instructions of the hotel's fire marshal, who will make themselves known.

00:03:55:28 - 00:04:47:11

So the format of the hearing, um, today's hearing is being undertaken both in person and with some online participation via Microsoft teams. We will make sure that if you are attending online today, you will be given a fair opportunity to participate in. The hearing is being both live streamed and recorded. For those people participating or observing via Microsoft teams in order to minimize background noise and disturbance, uh, could you please ensure that you stay on mute unless you are speaking? If you are participating online and you wish to speak at the relevant point in the proceedings, please use the raise hand function.

00:04:47:23 - 00:05:20:08

And please be patient as we may not get to you immediately. Um, but we will invite you to speak at the appropriate time. I would also remind everyone that the chat function on Microsoft Teams has been disabled for this event. A recording of today's hearing will be made available on the five Estuaries Offshore Wind Farm project page of the planning Inspectorate's National Infrastructure website, as soon as practicable after the hearings.

00:05:20:10 - 00:05:59:28

Conclusion. With this in mind, please ensure that you speak clearly into a microphone stating your name and who you are representing each time before you begin speaking. Um, and if you're not at a table which has a microphone, um, there is a roving microphone that the case team have. So please wait for one of those to be brought to you before you speak. Uh, if anyone wishes to use social media reports, film or record during today's hearing or any subsequent hearing than they're free to do so.

00:06:00:07 - 00:06:42:06

But please do so responsibly and with proper consideration for other parties. This must not be disruptive and the material must not be misused. We aim to keep the hearing focused so that it be it can be conducted efficiently. You will find information about this application on the planning Inspectorate's National Infrastructure Planning website, and we would strongly encourage you to continue to familiarise yourself with this website, because the examining authority is using it to communicate with you and to provide access to documents throughout the examination.

00:06:43:17 - 00:07:31:03

I'll just say a couple of brief words on general Data Protection Regulation GDPR. So as I mentioned, this hearing is being recorded as well as being live streamed. Uh, digital recordings are retained and published, um, for a public record which can contain um information to which GDPR applies. Um, with that in mind, could we ask that you try your best not to add information to the public record that you would wish to be kept private or that is confidential? Um, please bear in mind that the only official record of the proceedings is the recording that will be placed on the Inspectorate's website.

00:07:31:28 - 00:07:37:18

I'm now going to pass over to Mr. Heron to, um, cover the introductions.

00:07:39:01 - 00:07:42:04

Thank you, Mr. Harrison. Um, I'm not going.

00:07:45:26 - 00:08:21:04

I'm not going to ask those of you who are planning to speak at today's hearing. To introduce yourselves, could you please introduce yourself, stating your name and who you represent along with the agenda item or items you wish to speak on? If you are not representing an organization, please confirm your name, summarize your interest in the application and confirm the agenda items upon which you wish to speak. And please, could everybody also state how you wish to be addressed? Can we start with the applicant and its advisors, both in the room and virtually please? And if we can hear from first from whomever will lead the submission today and then from others who will make regular contributions.

00:08:25:17 - 00:08:33:00

Miss McGeady, I am a solicitor acting for the applicant. I will be leading for the applicant's team this afternoon. I'm going to ask the rest of the team to introduce themselves.

00:08:34:15 - 00:08:38:05

Julian Boswell, a partner with Burgess Salmon for the applicant.

00:08:43:07 - 00:08:46:15

This may not engineering manager for the project.

00:08:49:08 - 00:08:53:13

Good afternoon. Adam Kendall, land transaction manager for five series.

00:08:55:28 - 00:08:56:17

Afternoon.

00:08:56:19 - 00:08:57:17

Adam Canning.

00:08:58:08 - 00:08:59:17

McLaren senior surveyor.

00:09:02:09 - 00:09:03:01

Good afternoon.

00:09:03:03 - 00:09:06:03

Harry Stubbs, the director from. Malcolm McLaren with the land team.

00:09:10:23 - 00:09:14:22

Thank you. Is there anybody from the applicant team online that wishes to speak? No.

00:09:16:22 - 00:09:27:26

Thank you. Ben. Is there someone amongst the applicant team that will be able to keep a list of action points as they arise during the course of this hearing, so that they can be discussed under agenda item five prior to the hearing. Closure.

00:09:30:16 - 00:09:32:19

Part of that. Yes. So we can keep that list.

00:09:32:27 - 00:09:33:27

Thank you very much.

00:09:35:25 - 00:09:43:27

Thank you. Can we now move on to other interested parties in the room who intend to speak again? Please introduce yourself and tell us which agenda item you wish to speak on

00:09:47:06 - 00:09:48:01

See anybody there?

00:09:51:03 - 00:10:00:03

Is that anyone else joining us online today who may wish to speak during the hearing? Please raise your your virtual hand and switch your camera on. Please. Can we start with maybe Mr. Fell?

00:10:05:06 - 00:10:05:24

Hello?

00:10:05:26 - 00:10:30:29

Yes. Nobody can see me. But my name is Lily fell. Um. I act on behalf of certain Park Farms Limited and Alana Developments. Um. And we will be responding or talking about, uh, item 3.2 and maybe, um, 3.4 and 3.5, depending on what I said.

00:10:33:15 - 00:10:36:06

Thank you, Mr. Gold.

00:10:40:05 - 00:10:56:08

Thank you very much indeed. My name is Nicholas Gold. I am from Cobra Cobham Limited and I'm concerned with the lesser Black Gull compensation area on Orford, miss. I can refer to as Mr. Gold or Mr. Nicholas or whoever. Thank you.

00:10:58:08 - 00:11:01:04

Is there anybody else in the room or virtually who wishes to speak?

00:11:02:21 - 00:11:03:14

I have a hand up there.

00:11:06:09 - 00:11:17:13

Thomson Fairlie, on behalf of Turner Family Farms. Tea fairly limited and Robert fairly limited. We may wish to speak, um at sections

00:11:19:12 - 00:11:25:19

3.53.2, depending on what's set. Thank you.

00:11:30:06 - 00:12:29:18

Okay, so moving on. So this hearing will follow the agenda as issued on the project page on the 10th of September. It would be helpful if you had a copy of this in front of you. You will see the hearing guidance noted in the agenda document for expediency. I'm assuming that everybody has read this, and therefore I don't propose to spend time reading this out now, but I will make some elaborating remarks about the examination of this. N-type application is primarily conducted in a written form, as explained in detail by us at the preliminary meeting earlier today. The purpose of today's hearing is for the examining authority to begin hearing the applicant's case concerning the compulsory acquisition and temporary possession powers it is seeking, with particular regard to the legislative legislative

conditions for compulsory acquisition, including need and proportionality, where the full condition consideration has been given to reasonable alternatives to compulsory acquisition, and whether there is a compelling case in the public interest for all of the land, subject to the compulsory acquisition powers sought by the applicant to be acquired.

00:12:30:19 - 00:12:51:20

We will hear the applicant's case in any relevant submissions from affected persons and ask any questions as considered necessary. When you are answering our questions, please ensure that you provide succinct answers where a question is deserving of a yes or no type answer, then please respond accordingly, followed by any amplification as necessary. Are there any comments or questions on this agenda item?

00:12:53:10 - 00:12:58:27

Okay, so that concludes this item of the agenda. I will hand you over to Mr. Gold for item three.

00:13:08:10 - 00:13:43:19

Thank you. Um, before, um, I'm going to ask the applicant to summarize their justification for the panel's thought. Um, there are likely to be some questions that follow from the examining authority under this agenda item that are going to be of a more technical nature, um, and may relate to matters that will be for consideration during the course of issue specific hearing. One environmental matters, which will be held tomorrow and Thursday morning. Um, for the questions of a more technical nature, and I will highlight those in due course.

00:13:44:06 - 00:14:11:28

Um, there may be a need for the applicant to support their answers here today through the production of a technical note or notes. Um, so I'd ask the applicant to bear that in mind as I raise those particular questions. It might be that it's easier rather than giving very lengthy answers. Um, to indicate that that's material that should go into a technical note or notes. Hopefully things will become clearer as we get there.

00:14:13:24 - 00:15:08:06

Um, so turning to agenda item three one. Um, can the applicant give a summary setting out the justification for the CCA powers, uh, that it's seeking? And I'd like you to include, uh, within that summary. Um, the extent to which the powers sought in relation to the onshore cable corridor and substation for the proposed five estuaries windfarm. The substation and cable ducting for the proposed North Falls Wind Farm and the National Grid's East Anglia Connection Nodes substation would accord with the conditions stated in section one, two, two, two of the Planning Act and also the guidance relating to compulsory acquisition, which was produced by um Department for Communities and Local Government in September 2013.

00:15:08:16 - 00:15:11:08

So will the applicant please?

00:15:13:09 - 00:15:45:09

Well, good evening the applicant. The applicant's case is set out and fill in the application and in particular in the statement of reasons. App 030 and the planning statement app 231. It is important to

note that the second set of docks and the site preparation for the wider offshore wind farm substation site, which would include the area on which the North Pole substation will be constructed, form part of the development for which consent is sought. These are works which are listed in schedule one of the draft DCO.

00:15:45:21 - 00:16:19:22

The applicant is not seeking powers of acquisition for works which are not part of the authorised development. The second set of ducts form part of the associated development for which consent is sought. Guidance on associated development has been issued by the Secretary of State. That guidance provides that associated development should either support the construction or operation of the principle development, or help to address its impacts. The inclusion of the second set of ducts is designed to address the cumulative impacts of the proposed development and accord with NPAs N5.

00:16:20:22 - 00:16:54:05

The Department for Communities and Local Government, as was guidance issued in 2013 on associated development, provides and associated development principles at paragraph five, Roman numeral four that associated infrastructure development, such as a network connection that is on a scale larger than, is necessary to serve the principal development. If that is, associated infrastructure provides capacity that is likely to be required for another proposed major infrastructure project can be explicitly provided for in a DCO.

00:16:55:06 - 00:17:23:06

The footnote to that paragraph explicitly addresses offshore generating stations transmission infrastructure that provides. In the case of an application for an offshore generating station, the Secretary of State may consider it appropriate for a degree of overcapacity to be provided in respect of the associated transmission infrastructure, so that the impacts of one or more other planned future projects, which could make use of that infrastructure, would be reduced by taking advantage of it.

00:17:26:03 - 00:18:12:24

The reason that we were clarifying that this is part of the development is because section 122 of the Planning Act requires that the Secretary of State be satisfied that the powers sought are required for the development, or required to facilitate or incidental to it. The second limb, under section 122 to be as widely drawn the powers of acquisition sought meet this test. In particular, the seeking of powers for the second set of ducts allows the project to comply with the obligation under NPS N5 to seek a coordinated approach in 2.13 of that policy, and includes considering co-located substations and transmission lines, as is explicitly provided for in N5 at two point 13.16.

00:18:16:25 - 00:18:54:24

Or the onshore cable corridor. The applicant is seeking compulsory powers and temporary possession over a corridor of land within which proposes to microsite the cable corridor. The corridor is, in the majority of cases, 90m wide to allow for flexibility at the detailed design stage. That detailed design will have regard to further investigation of the land, and will include seeking to minimise impacts on ecology, including, for example, trees within that corridor. The working corridor for the export cable is generally 60m wide, with a final land take of 20 metre protective easement for each set of cables or docks.

00:18:57:17 - 00:19:30:12

Those protective easements are necessary to allow access to inspect and maintain the cables to protect it, and are the minimum necessary to deliver and maintain the proposed development. The majority of the onshore cable corridor is currently in agricultural use, and that use will be able to resume once the cables have been installed. Accordingly, seeking rights to install, use, maintain and protect the cables and not the acquisition of the land is considered to be appropriate and the necessary level to be sought under section 122.

00:19:32:16 - 00:20:07:02

Although powers are sold over a wider corridor than that which will be finally acquired, that is necessary to allow the development to undertake detailed design and the final routing of the corridor. It is disproportionate to do that work ahead of consent being granted, given both the substantial costs involved and the intrusive works, including more GI and trenching, which be required to inform that. This approach is common in decors, including other offshore wind decors. Um, and as examples, we would give the 2023 or more and the 2024 sharing of indulgent decisions, but both adopted a similar approach.

00:20:09:02 - 00:20:23:19

Or the substation. Given that the landowner will not be able to resume the current use, and that the applicant needs to be able to control the area for the life of the development. It's appropriate that freehold interest is taken and the landowner is compensated for the full value of that land.

00:20:25:24 - 00:20:55:29

For competition and procurement reasons, the applicant cannot carry out and is not seeking consent for the electrical works as we refer to them. For North Poles, that would include the installation of the cables and the building of the North Pole substation itself. Therefore, they do not form part of our application within the wider substation area. The collaborative approach adopted by the projects is that, where possible, the first project will carry out the leveling and earthworks to create a level working area for all of the works.

00:20:58:22 - 00:21:34:21

The landscaping design for the Five Streets project requires access to and vehicle movements over the whole of that area, and it would be required to be occupied for either project to work on their development. Given that and aligned would necessarily have been taken out of agricultural use during that, it would be less impactful for these works to be done as a single program than seeking to create an island of restored land in the middle of the wider works. This approach would reduce overall impacts by carrying out all of the earthworks at one time as part of one programme, rather than being carried out by two contractors at different times.

00:21:36:14 - 00:21:50:03

Practically, it would be challenging to create the level needed for the final landscaping for five estuaries without affecting the area for the other project substation footprint. Doing that would also likely need drainage to be considered for that area.

00:21:52:28 - 00:22:21:26

The wider area is necessary for carrying out of the five estuaries development, as the landscaping is more effective when it's placed on the outer red line of our home order limits. It's accordingly necessary and for and as part of the authorised development, even if North Walls was not a consideration as that landscaping strategy sites the landscaping on existing field boundaries and hedges some distance away from the the final substation footprint.

00:22:26:29 - 00:22:27:24

The wider area?

00:22:30:19 - 00:23:02:07

Yeah. The wider area therefore meets the section 122 test, and that is required to facilitate the five year development to level this land as part of the wider world practically and to prevent creating drainage and maintenance issues. The guidance is clear that land necessary for works to make the development acceptable, such as landscaping, may be acquired compulsorily. Paragraph 12 in the guidance. The applicant accordingly submits that these areas are reasonably required and meet the statutory test and the guidance.

00:23:06:02 - 00:23:42:28

The inclusion of works to install a second set of dots for North Falls means that the width of the corridor, which may be acquired, is wider than it would be for V and I. Sorry, five stories in isolation. However, by following this approach, project deficiencies and had reduced and a reduction in the overall land and environmental impacts could be realized, including, for example, having a single haul route for the cable corridor to support construction, single access points at construction compounds from the highway network and using the same construction compound areas, reducing the total number of construction compounds and area required.

00:23:43:19 - 00:24:16:14

A fuller list of these potential collaborative efficiencies is given in the Statement of Reasons EP 0303.1.7. Moving on to the National Grid ECN site, the applicant has to get its cables to the National Grid Substitution boundary to then be able to connect into that substation. The applicant is not seeking to consent any works for National Grid, or to deliver their substation, or any rights to National Grid to within the year end ECN site.

00:24:17:01 - 00:24:49:22

The applicant is seeking powers to acquire rights to install and maintain its cables and to access those. Those powers are necessary and are currently sought over the whole area, as it is not yet known where in the area identified National critical site, the substation, and where within that substation, the five connection point would be. The applicant accordingly needs to be able to route the cables to any point that National Grid determines. This may involve both land with National grid later acquire and land which they do not.

00:24:51:21 - 00:25:16:01

The applicant also needs to be able to access those cables at this time. The intention is that rather than create multiple accesses to that site, the applicant would use whichever point access point National grid create to and align with that in order to minimize impacts. That does, however, mean that the

route through the wider site to the cables cannot yet be known, and the rights are accordingly sought over the whole area

00:25:17:24 - 00:25:28:00

where the final connection point is known before any rights have to be exercised. The applicant would only seek to take the cable and access corridors necessary to align with that final design.

00:25:30:15 - 00:25:45:21

Given that that point is not yet known, the powers sought are necessary over the whole area to ensure that the development can get cables to the connection point to operate the development. The resort accordingly compliant with section 122.

00:25:48:13 - 00:26:01:21

Or all of the powers sought. The guidance in paragraph nine provides that the applicant must demonstrate a clear idea of how each plot would be used. The neat and proposed use for each area is set out in the Statement of Reasons in section nine.

00:26:04:14 - 00:26:39:03

Moving on to temporary position, the applicant is seeking temporary position for land required and construction, but which is not required in operation. This minimizes land over which permanent rights are required to be sought. The use of temporary possession powers, and DC also commonly includes the ability to use land for access during construction. In this case, there are a number of plots where the applicant requires to take access during construction, but does not intend to do so exclusively. Essentially, the proposal would be to use temporary possession powers to create a temporary right to share accesses.

00:26:39:13 - 00:26:45:18

The alternative would be to create a permanent right of access, which the applicant does not consider as necessary or proportionate.

00:26:47:05 - 00:27:10:02

In order to assist landowners in identifying and having certainty where we are proposing to share access and not exclude current use, the applicant has subdivided its temporary position and created a new category of temporary possession for access only. These are short green on the lands plans AP P008 and are flagged as. It's a slightly unusual addition to have two colors of temporary possession.

00:27:13:00 - 00:27:15:12

That is all that we can wish to see at this time. So.

00:27:22:19 - 00:27:32:03

Thank you. Are there any affected persons who wish to comment on what you've just heard from the applicant? Before I start asking some questions.

00:27:34:03 - 00:27:34:18

I'm.

00:27:38:01 - 00:27:40:16

Not seeing anything from affected persons. Thank you.

00:27:53:07 - 00:27:59:17

Unfortunately, some of these questions are a little bit long, and maybe the answers are not nearly as long as the question. But anyway. Um.

00:27:59:19 - 00:28:13:24

Sorry, sir. Sorry to interrupt. Um, the all that preface seems to relate to the cabling route, etc.. I assume we're not talking about the lesser blackbear girls area at the moment.

00:28:14:01 - 00:28:14:29

Not at the moment.

00:28:15:15 - 00:28:16:06

Thank you. Raj.

00:28:25:26 - 00:29:18:14

I'm going to give it to this question. I'm going to have a little background before I actually get to the question. Um, much of the land affected by the proposed development is coloured blue on the land plans P006 and on those plans and in the book of reference, P026, um, the land is shown or described as land uh for which acquisition of rights. But it appears what the applicant is actually seeking are powers of temporary possession to undertake trenching, drilling, installation of ducting, cable pulling and other construction activities and that when those works have been completed, there will then be acquisition of permanent rights and imposition of restrictive covenants so that the buried cables can be operated, maintained and protected from adjoining uses

00:29:20:02 - 00:29:23:19

which could damage or preclude access for maintenance purposes.

00:29:25:07 - 00:29:46:09

So here we get to the question. Do the onshore plans and book of reference accurately record the temporary possession and permanent rights acquisition powers that are actually being sought? Should the powers soar in respect of the blue land, be more accurately described as land to be used temporarily with rights to be acquired permanently?

00:29:52:02 - 00:30:21:08

Uh, thank you for the applicant. Um, yes. They could accurately be described in that manner. The Convention on Land Plans has always been assured. The the highest level of interference, which is proposed. So the highest level of interference which falls over those sites is the acquisition of permanent rates. However, changing the wording to be temporarily possessed and rights to be permanently acquired if it was felt to be more accurate. I don't see any reason we couldn't look into doing that if it would be helpful.

00:30:33:01 - 00:30:57:12

But certainly seen with other cases, particularly linear cases where there's a lot, um, of temporary possession followed by rights acquisition. Um, that's how it's been described, rather than, um, relying just on, um, reference to permanent rights acquisition, because that's really not what's going on. Um,

00:30:59:10 - 00:31:03:27

I think the examining authority's preference would be to see the land plans changed.

00:31:06:25 - 00:31:11:15

I'll let me get you for the applicant. We will look into doing that, or I'll need to take some advice on how long it will take to update us.

00:31:22:17 - 00:31:23:02

All right.

00:31:24:29 - 00:31:29:21

We were just wondering if you had preferred example you would like us to consider when we're making that update?

00:31:31:16 - 00:31:32:01

Um.

00:31:32:18 - 00:31:52:00

I suspect if you look at any of National highways or, um, I've forgotten what they were call that up until about 18 months ago. Um, Highways England, uh, if you look at any of their schemes, that's how you may well see, um, they've depicted on their land plans.

00:31:53:25 - 00:32:08:19

I just think it will be clearer to everybody involved. Um, if it's done that way. Certainly. When I first looked at the plans, I started quick, you know, in my own mind, wonder precisely what it was the applicant was doing in terms of rights.

00:32:10:10 - 00:32:16:06

If we can flag that as an action, we'll come back to perhaps a time scale when we come back to action points later on.

00:32:24:17 - 00:33:07:14

For the applicant, are you content in respect to the permanent rights acquisition and temporary possession powers sold that the details shown on the land plans and included in the book of Reference, Statement of Reasons and Draft Development Consent order are all consistent with one another. The reason I ask that question is I have encountered another case where there was confusion, particularly in the schedules relating to temporary possession and rights acquisition, um, as to what are being included in each category and then what was shown in the statement of reasons to try and explain what was going on in the background.

00:33:08:09 - 00:33:32:18

So I think really what we're asking for is can you please make sure you review the land plans? The book of reference, statement of reasons and the draft order to make sure they are all consistent. Um, and the other case that I dealt with where we had a problem, it took us as an examining authority, in that case, a long time to unpick what was going on and to make some suggested corrections in Alf recommended draft DCO.

00:33:35:05 - 00:33:42:04

For the applicant? Yes, sir. We did undertake that exercise and it did takes several of us some time, but we will have a double check of it. Thank you.

00:33:48:15 - 00:33:55:23

Sir. I'm just having my Mr. Gold. Your hand is up. Did you want to speak or is that just a legacy?

00:33:59:19 - 00:34:00:22

It's just legacy.

00:34:01:07 - 00:34:01:22

Thank you.

00:34:02:10 - 00:34:03:20

I don't know how to get rid of it.

00:34:08:19 - 00:34:22:04

Came for the applicant. Can I ask who actually wrote the statement? Reasons. P0033. Sorry. 030. Was it the legal team or was it somebody else?

00:34:23:06 - 00:34:29:06

Well, again, it was a joint effort between the legal team and the. I'm sorry, I forgot your title.

00:34:30:22 - 00:34:32:11

The land transaction manager.

00:34:46:20 - 00:34:56:01

Okay. For the applicant, if there's a conflict between the legislative provisions and policy and or guidance, which should take precedence.

00:35:08:02 - 00:35:21:24

I'll make it happen. That's quite a hard question to answer in the abstract, because there's interpretations of both of those things. You would have to be the interpretations that were being relied on to. To believe that there was a conflict would be important to understand.

00:35:28:11 - 00:36:15:17

The point that we may come to in in a while is while in five, um, is promoting coordination for obvious reasons, that coordination may not be consistent with what, uh, the tests are or the conditions. When you look at section one, two, two, um, in five is a fairly new set of policy and dating from, um, what designation, where there's a little bit confusion about when the designation was, but the

inspector is generally working on the basis that it was actually January 2nd, 2024, albeit the cover uh, to that document refers to the department's thinking that they'd actually designated earlier.

00:36:16:12 - 00:36:16:27

Um.

00:36:18:25 - 00:36:31:12

But the coordination that's promoted in eon five isn't, as I say, necessarily consistent with what's in the act. And the two haven't necessarily, uh, are not necessarily in tune with one another.

00:36:34:11 - 00:37:11:10

Uh, Paul McCartney for the applicant. I think so this may relate back to the point I was trying to make around the definition of associated development and what one can include within. So section 122 relates to the compulsory acquisition being related to the development for which consent is sought. Um, we did think about this very carefully when we're putting this application together, and we are very confident that what we have included is a proper Out onshore is a properly associated development, and that includes having regard to the 2013 guidance on associated development under the Planning Act, not just N5.

00:37:11:28 - 00:37:12:13

Um.

00:37:14:20 - 00:37:20:18

I mean, I'm aware that I read that out fairly quickly, and we will, of course, put that in in writing to assist as well.

00:37:21:27 - 00:37:32:27

Uh, yeah, I'm familiar with the associated development guidance, but whether that's consistent with the compulsory acquisition guidance is perhaps also an issue that needs to be taken on board. Um.

00:37:35:00 - 00:37:40:10

So we're confused by this because, um, we

00:37:42:03 - 00:37:48:07

it's for any applicant to frame their own application and decide what works.

00:37:48:09 - 00:37:49:00

To seek.

00:37:49:02 - 00:38:32:18

To, um, have development consent for and then assuming they're underpinning the scheme with compulsory acquisition, which we are um, therefore also to seek compulsory acquisition. Um, and so as far as we can see, unless we were going beyond the remit of what one is allowed to put in a DCO, then what we have put in the DCO, we are perfectly entitled to seek compulsory acquisition and related powers, temporary possession to, um, assist in the delivery of the scheme.

00:38:32:23 - 00:39:28:03

So to us, the core question is, have we overstepped the mark as regards the interpretation of associated development? And I guess the starting point here, and this is what um, Mr. Mangini was, was alluding to, was that, um, we have been on a multi-year, um, journey, uh, to use that word in relation to how we were supposed to respond to the emerging grid agenda centered on the Offshore transmission network review, which was bringing in, um, on, in headline terms, a new approach to network coordination.

00:39:28:26 - 00:39:53:08

Now, as it happens, um, the formal other process did not include projects in East Anglia. And so and this is arguably a little bit of a separate strand. So I'm not going to go too far down this track. But the um, that, that there was an exercise

00:39:54:29 - 00:40:27:02

of what arguably was a sort of informal, uh, strand to the well, it was linked to the so-called Early Opportunities Program. But at the at the heart of the Other model is something called holistic network design. Um, and the idea is that when you look at, um, a region that you can try to establish if there is a better solution than radial, you know, the normal, uh, radial connection approach.

00:40:27:12 - 00:41:22:20

And, um, it was decided, for whatever reason, that that wouldn't formally be applied to East Anglia, the East Anglia projects. But we did, along with other projects, participate in, um, a sort of multi stranded initiative under the rubric of so-called early opportunities, which went through a multi-phase. I'm summarizing here because I could speak to this for about an hour, um, uninterrupted. Um and the so as getting back to the um N5 dimension at the same time as the offshore transmission network review was happening, drafts of uh, N5 and the other energy, um, national policy statements were emerging, and we spent a huge amount of time reading those, studying those, and asking ourselves what they meant.

00:41:22:22 - 00:42:23:13

And that wasn't at all straightforward on some of the earlier iterations. And that was taking place at the same time as the Other process was going through, a sort of a phased iteration. So where it ended up was that we had to make a judgment call as to where we thought the N5 was leading us for two projects ourselves in North Falls, which would ordinarily have simply gone for a straightforward, independently promoted parallel radial solution and would not, on the previous version of um M5, been expected to demonstrate coordination.

00:42:23:15 - 00:42:56:22

This, which is the key word which we spend a lot of time reflecting on. What does that mean? Um, and in the previous iteration of N5, we could have, on the face of it, promoted two completely separate corridors, um, as projects that happen to be in a similar time frame in a similar geography, going to ultimately the same location. And frankly, most projects wouldn't have wanted the extra burden of well, sorry, but be careful.

00:42:58:11 - 00:43:26:20

It would by no means of being a foregone conclusion that on on the previous version of the N5, the two projects would have come together in the way that they have. Um, in other words, we would say N5 has worked. You know, we we have responded to that new policy imperative, which is one strand of a multi stranded sort of new approach to grid connections. Um, and then so the point that I'm getting to ultimately is.

00:43:28:28 - 00:43:59:18

How much to what extent could the projects do work advance work for the second project. Whichever one came second, to what extent do we want to provide for that in our DCO and North Falls? The mirror image, what is, you know, is that required pursuant to N5. Um. And see, there's nobody there to tell you what the answers to all of your difficult questions are. So you have to make a judgment call.

00:43:59:20 - 00:44:30:23

And our judgment was that, at the very least, it was prudent for us to do what we have done, namely, to give ourselves the ability to, um, put the ducks in for the second project, the option of putting the ducks in and to do the, the site, um, leveling and incidental works at the substation location. We did look at other aspects of the project, and there were different reasons, including ones that, uh, miss McGee, Mrs. McGee, miss McGee has already alluded to around competition and procurement.

00:44:30:25 - 00:45:04:00

That meant that that was, as far as we felt the projects could or should go on our on our on our fact. And so then the killer question for the DCO and the point that you're, you're raising and you're raising a fair question because at first sight you say, well, you keep telling us that these are separate projects. Um, so is it is it is it actually appropriate for you to be consenting and seeking compulsory acquisition powers for another project, which you keep saying is a separate project? And

00:45:05:18 - 00:45:53:07

the answer is that the answer to that is yes if we haven't taken associated development too far. And so naturally, when you look at the act, um, there is no flash whatsoever on the concept of associated development. And so you then look at the guidance which you are obliged to do. And there is a very helpful section in there. And for what it's worth, I know the history of that section. That section came about because of the first East Anglia project where in anticipation of a legitimate concern about the fact that, um, potentially things think this is by the same developer which is, which was Vattenfall.

00:45:53:16 - 00:46:38:23

Um, the the concern legitimate local concern that was expected was well wouldn't it, you know, are you really going to come along and dig all of this up and promote a completely separate DCO and so on and so forth? Couldn't you at least provide for some, some advance works or the possibility of advance works? And it was recognized at that time by the promoter and by the industry, um, through uh, as an industry body that I'm closely involved in court renewable UK, you may be familiar with and and there was discussion with government and with the Planning Inspectorate about this, and I can't remember the precise chronology, but believe me, it's not accidental that that footnote is an offshore wind example.

00:46:38:27 - 00:47:13:20

And that example was in fact, I think the chronology was that Vattenfall were brave enough to promote that before the guidance had come out or had come out in its final form. And then I think by the time the decision was made, um, the guidance was out. In any event, the Secretary of State did Grant recognizing that that was the same developer, whereas here we've got separate developers. Um, it did grant the DCO in the terms that that was applied for, namely that the ducting for the second project that could that it could be put in.

00:47:13:22 - 00:47:43:22

So if you fast forward to our situation, I think it's highly relevant that the opening paragraph in the relevant part of the associated development guidance is expressed in generic terms. It talks about I haven't got to me, but it talks about, um, another major project. It doesn't say by the same developer. Um, and then the example that is given is simply an example. And it happens to be an offshore. But there's a bit of, there's a bit of further example in the text, the main text.

00:47:43:24 - 00:48:37:10

And then there's the, uh, footnote that, uh, miss McGeedy read out. So we were we you know, we were following a path that was, uh, you know, trodden a long time ago for us by by Vattenfall and the team that that promoted that first East Anglia project. And so we, we were very comfortable and we are very comfortable that it is um, it is perfectly appropriate and proper for us to include the, the works for, uh, North Falls in our application in the way that we have as associated development and assuming we're right and we're very confident that we are right, um, then we absolutely can, pursuant to section one, two, two, seek, um, compulsory powers and seek, uh, temporary possession powers.

00:48:37:12 - 00:48:38:04

I'll stop there.

00:48:45:10 - 00:48:52:11

Thank you, Mr. Boswell. That was quite a long response to what was, I thought, quite straightforward question.

00:48:54:00 - 00:49:25:11

Um, certainly heard what what the applicant's view is about compliance with 1 to 2. Um, no doubt you'll produce a post hearing note where you'll set out what's just been described. Um, we will certainly have to think about that. Um, as to whether or not we, we consider in making a recommendation to the Secretary of State that your interpretation of this, of the situation, um, is acceptable. Um.

00:49:27:15 - 00:49:56:16

But you will be aware that certainly where there have been issues, not necessarily in it as far as the Planning Act 2008 is concerned. But, uh, under the Town and Country Planning Act regime, there have been instances where the courts have made it quite clear that there have been attempts with policy and or guidance, in effect, to use up statute which the courts have not been overly comfortable with, and there have been decisions quashed on that basis.

00:50:01:21 - 00:50:02:06

Um.

00:50:08:12 - 00:50:18:29

Do any effective persons have any observations on what the applicant has just said in response to my question about legislation versus policy and guidance

00:50:20:15 - 00:50:21:23

not seeing anything?

00:50:30:07 - 00:51:08:07

Right. The reason for the question about who drafted the statement of reasons and or, you know, was it the legal team or was it somebody else we've established? It was a combination of legal team and the the property team. Um, in paragraph 5.3.3 of the statement of reasons. AWP hyphen 030, it stated that scenario one would mean that the land and rights beyond those strictly required to allow v um five histories to be constructed and operated are sought.

00:51:08:22 - 00:51:11:24

Can you explain what that statement means?

00:51:16:18 - 00:51:18:02

Do you want to read it again?

00:51:21:03 - 00:51:22:19

Could we possibly have a paragraph reference?

00:51:22:27 - 00:51:30:12

It's 5.3.3. Page. Page 23 is the top.

00:51:33:26 - 00:51:47:12

Part of that that is perhaps, um, a slight inaccuracy in drafting when in that V in terms of being five rushes, and what is applied for includes those dogs. And what this was trying to see was that

00:51:49:03 - 00:52:01:28

in order to operate the Five Streets development and its cables, and not the second set of ducks. This is yeah, it's it's not perhaps the tightest language there. And we could look at clarifying that if it would be helpful.

00:52:11:27 - 00:52:25:29

And the concern that I had before I even looked at the statement, the reasons, as you may have gathered, was in effect, is there over acquisition going on? And then when I read that paragraph, I get even more concerned.

00:52:37:12 - 00:52:38:11

Yeah, yeah.

00:52:45:21 - 00:52:47:09

And as a supplemental.

00:52:49:19 - 00:53:11:20

With respect to the key pals. So would they or would they not all accord with conditions stated in one, two, two, two. A land is required for the development to which the consent relates, and or one, two, two to be land is required to facilitate or is incidental to that development. Um.

00:53:13:21 - 00:53:24:27

And the supplemental to that supplemental is actually what is strictly required to facilitate the construction of the five estuaries wind farm onshore.

00:53:29:09 - 00:53:31:06

Within the ACN site.

00:53:32:00 - 00:53:34:00

No onshore oil works.

00:53:35:24 - 00:53:41:24

But our position does. Everything that is thought is necessary to deliver the authorized development onshore.

00:53:43:27 - 00:54:06:20

Now, the question I just to construct five estuaries and operate five estuaries strictly. What is required to facilitate that development? Not North Falls. Not not the connection. But if five estuary stands alone strictly, what is required for it to operate

00:54:08:07 - 00:54:08:22

in.

00:54:18:16 - 00:54:20:05

Judea and possible for the applicant.

00:54:25:03 - 00:54:41:16

To to operate um five estuaries has to connect to the grid and the grid connection Agreement places that obligation on five estuaries. So as far as the the cables to run from.

00:54:42:08 - 00:54:42:23

The.

00:54:42:25 - 00:55:15:18

Project substation to the East Anglia connection node substation, that is the five estuaries obligation to get those cables to the national grid, the future national grid substation. So we we say and this is absolutely the norm that that is part of there's no question at all that that's part of the Five Estuaries project. It could in theory be done the other way. Um, but it just it isn't and that doesn't reflect that.

00:55:15:20 - 00:56:09:24

The, um, the obligations under the, the grid connection agreement. I think the other point that you're coming at, perhaps from from a different direction from the previous discussion. Well, perhaps another way of putting it is if we had decided not to put anything in our application to facilitate North Falls. How different would the application be? And we haven't asked ourselves that question and don't really want to ask ourselves that question because as I've said just before, we are absolutely confident that we are entitled to do what we are doing in terms of making the application by including some elements to facilitate North Falls if we go first, or having the option to do that.

00:56:10:12 - 00:56:11:24

And therefore,

00:56:13:23 - 00:56:52:01

whilst there is, I accept a theoretical question of what might the application have looked like? And I imagine that I'm not saying this with any enthusiasm. Um, that um, If you were, you know, in the worst case, and we're not giving you any encouragement whatsoever on this score, as you can appreciate if you were saying, right, well, if we're against you on the points you've just made, Mr. Boswell, on associated development, and we think that you are seeking more land and rights than you're entitled to by way of compulsory acquisition and temporary possession.

00:56:52:21 - 00:57:12:00

What would the what would the DCO look like? Because it may be that we're going to recommend to the Secretary of State that he only grant that and that he omits whatever it is that, um, is in there, that to facilitate North Falls.

00:57:15:18 - 00:57:32:27

It would help to have a steer as to whether that is where your, your mind is at, because we really don't want to go down that path because it's not a straightforward exercise to say, oh, you just, you know, take that bit off the, you know, the corridor width, for example.

00:57:35:26 - 00:58:12:13

You will have seen one of the draft written questions, uh, tackles this issue. Yeah. Um, we I think as an examiner authority would like to know what, in effect, a standalone five estuaries scheme might look like. We're not saying, um, because we're literally not not quite even technically in day one of the examination that will be tomorrow. But we we are in the very early stages. Uh, but it is, I think, going to assist us to understand what, in effect, a standalone five estuaries scheme would look like.

00:58:12:25 - 00:58:47:05

Um, because come recommendation time, six months, and whatever time we might be facing a situation where we, we consider, uh, in our recommendation that there is over acquisition and that we need to make some different recommendations to the Secretary of State to address what might be our concerns. Now, if we've got those concerns at the end of the examination and present them to the Secretary of State, of course the Secretary state may not agree with us, and he may accept the interpretation, particularly of the associated development that you've put to us this afternoon.

00:58:47:14 - 00:59:16:19

But I think the military does need to be in the position of understanding what a standalone scheme might be. Um, so that if we do feel that we have to go down that route, um, we've got the information to make a recommendation, albeit, as I say, uh, we'll be asking you, in effect, to present information on or without prejudice basis, because you've made it quite clear. You believe as things stand at the moment, you see it wholly within the legislative requirement.

00:59:19:16 - 00:59:22:08

Yes. Julian Boswell for the applicant, um.

00:59:23:24 - 00:59:53:27

To perhaps make it easier, We're not necessarily saying to you, you must go away and do an alternative design, but we would at least like, I think, to be in the position of knowing how much land, um, might be required for a standalone, uh, five estuaries compared to what we've currently seen in the application document. So it might be that it's 66% of what's shown in the drawings and in the DCO. Don't know.

00:59:56:01 - 00:59:57:08

Julian Boswell for the applicant.

01:00:00:18 - 01:00:45:25

I think I guess I want to manage your trying to manage our expectations, and I want to manage yours because the what I'm sure we can do is explain why that isn't a straightforward exercise. We can definitely do that. What I what I think we're going to struggle to be able to agree to do. But I'm not saying it definitively because I don't have firm instructions. But we have discussed it. Prompted by the draft questions that you've alluded to is to do what would be I, I understand quite a significant exercise of reimagining stuff that we've been working on for months and months and months.

01:00:46:03 - 01:00:58:24

And so I don't think that a neat answer would, you know, is available in the way that you might be imagining. And so I'm sure that we can explain

01:01:00:11 - 01:01:10:12

what would be involved in trying to provide that answer as part of, um, trying to dissuade you from asking us or hold on.

01:01:24:29 - 01:01:32:28

An important points have just been drawn to my attention, which I'll come to in in a second. So I think the.

01:01:35:04 - 01:01:44:16

I guess I'm trying to emphasize this isn't this isn't as straightforward as it might seem at first sight. And then the point has just been drawn to my attention is.

01:01:44:27 - 01:01:45:12

There.

01:01:45:14 - 01:02:33:13

Would be a very different answer to your question. If you make the assumption that North Falls didn't exist at all, and we were simply being promoted in isolation of North Falls as compared to North Falls, uh, does exist. Um, but we aren't seeking to do anything to facilitate it. So I guess my assumption is that you mean us to consider the second scenario only, not the one where North Falls doesn't exist at all? But I guess I think that that observation alone is an indication of how sort of complicated this this becomes and why.

01:02:36:02 - 01:02:42:15

Yeah, we're we are. We're happy to explain why it's complicated, but we're pretty reluctant to go down that path.

01:02:42:17 - 01:02:55:25

What what we're really asking is for however many, um, turbines there are offshore of whatever capacity that is, and we're going to come to capacity in a while.

01:02:57:13 - 01:03:16:04

What would be needed to, in effect, transmit that electricity from offshore once it's got to landside to get it to whichever substation, uh, feeds into the national grid electricity transmission system.

01:03:24:29 - 01:03:30:13

But for the straight, the easy answer to that is everything except the second set of ducks.

01:03:33:25 - 01:03:36:01

That are otherwise there for North Falls.

01:03:38:24 - 01:03:46:25

Which is kind of what I noted for the whole series of the works that I scribble down. And when I'm preparing this question.

01:03:47:23 - 01:03:48:08

Um.

01:03:51:14 - 01:04:02:21

So it might then be, again, going back to the draft written question and what we've asked for there is that somebody needs to do a bit of maths to work out, um,

01:04:04:16 - 01:04:27:06

the land area that you've got for everything at the moment, the two sets of ducks. Um, and then do the exercise minus what in effect, North Falls would require. And that should give you what Five Histories requires and one substation, plus a connection to the National Grid substation.

01:04:36:06 - 01:05:04:15

For the applicant. The the reason that we are being slightly reluctant here is not as simple as taking a strip down the side of the cable corridor and taking that land off, because we would need to think about where the access routes through it, where the construction routes through it, wherever the broad

diversion routes through it were, and put all that land back in. It's actually quite, um, a complex job to give you a meaningful answer to that. And we can't just see 15m comes off the edge of the cable corridor strip because that's not realistic.

01:05:29:28 - 01:05:52:05

Oh, let me get you for the applicant. Sorry. Um, my colleague, the engineering lead for the project, is also just worked out. It's, um, pointed out that trying to assume that North poles aren't there and create a deliverable land take is actually quite challenging in that a lot of our accesses would then be blocked by North Poles, and we would have to rethink the access strategy as well. It's it's quite a complex exercise.

01:05:52:17 - 01:05:53:02

Uh.

01:05:53:11 - 01:06:02:28

Fully, fully appreciate that. But, um, you'll have gathered from the questions we've, we've asked so far and we've got some more to come. We have got concerns.

01:06:21:14 - 01:06:22:24

Julian Boswell for the applicant.

01:06:24:12 - 01:06:48:29

I'm not sure what you would find most helpful. I think we've from our perspective, it's been helpful to have the discussion that we've had in the last few minutes. We've seen the draft questions. Obviously, we'll see what they come out in final form. They might get tweaked in the light of the discussion we've just had. Um, and we will do our best to give a helpful answer. But, um, I don't think

01:06:50:24 - 01:06:57:27

I think our starting point is going to be to explain the complexities of answering that, that question.

01:06:58:27 - 01:07:30:03

I think it would be useful then, certainly as an action arising out of this hearing, uh, you produce a note that explains the difficulties and the issues that are arising out of what we're requesting. That will then give us the opportunity to consider that. And then when we get to producing, in effect, the first written questions, we can take a view as to whether or not we're going to continue to ask this question or change, uh, the wording or the approach that we use in the first iteration, which is in the draft question.

01:07:33:11 - 01:07:37:11

I think that might be a more useful way of progressing this afternoon rather than.

01:07:51:27 - 01:07:52:27

It would. Um.

01:07:54:14 - 01:08:28:17

I think we can go along with the technical note suggestion, but we do need to know for sure, preferably now, whether we are assuming that North Falls is still there and we are working around them, or whether we're assuming which would be a very artificial assumption, though I suppose that that they don't exist because clearly they are promoting a scheme. The only scenario in which they wouldn't exist would be if I guess either they didn't get consent, or they did get consent, and they couldn't win a contract for difference, and they band, they formally abandon the project.

01:08:33:18 - 01:08:45:06

I think to be able to quantify precisely what North sorry, five history is stand alone. It's almost got to be disregard nor false.

01:08:49:01 - 01:09:12:26

And do you only want us to do that you don't want us to do? Because it's less work if we're only doing one thing. Um, that that, uh, if that's it. So is that the only thing you want us to do? So we make what is an artificial assumption that North Falls doesn't exist? What would we have been promoting if if there wasn't another offshore wind farm? Um, in the same timeline, on the same route.

01:09:12:28 - 01:09:32:00

That at least gives the executive authority a handle on just how much land um, five S3 standing alone would require and what the elements to north. Five estuaries would be standing alone. I think I think we're all pretty clear on what the elements are.

01:09:39:04 - 01:09:53:18

Thank you for that. Um, that is an easier thing for us to do. Um, and so we will, um, we will explain what's involved, but we're going to need to reflect on this. We will try to be as helpful as we can.

01:10:34:19 - 01:10:37:23

Mr. Gold. I see you've got your hand up. Do you have a point you wish to raise?

01:10:41:18 - 01:10:48:16

Yeah, that's no take. I haven't learned how to undertake. I'm afraid I will have points in due course. But not now. Thank you, thank you sir.

01:10:49:12 - 01:10:54:04

If. If on the hand function, you give it a good push with your mouse, it usually cancels it.

01:11:12:24 - 01:11:35:03

I think that then concludes item three one. We turn to agenda item three two, which is consideration of all reasonable alternatives to the proposals for onshore compulsory acquisition and temporary possession. Um, can you on the applicant side, please summarize your position?

01:11:39:24 - 01:11:40:17

For the applicant.

01:11:42:07 - 01:12:30:15

The applicant has undertaken a logical staged process to arrive at the five estuaries. Location and design. The site Selection and Alternatives chapter of the year sets out in detail the approach to and consideration of alternatives, with further technical assessment and the associated annexes. The site selection and consideration of alternatives has been a sequential process informed by an understanding of the potential locations for the infrastructure. And the detail of those areas refining those location options. This has ensured that the findings of the environmental surveys and assessments have guided the evolution of the project, and the onshore development areas have been modified to avoid, reduce or mitigate the potentially adverse impacts as far as practicable on a number of the land parcels affected.

01:12:32:29 - 01:12:37:29

The consideration of land use is also set out in the Site Selection Alternative chapter.

01:12:40:01 - 01:12:42:21

The site selection process and alternatives considered

01:12:44:14 - 01:13:27:27

have been considered through detailed analysis of environmental and engineering constraints, with key feasible alternatives taken forward for consultation either through the scoping process, the evidence plan, or specific evidence plan. Meetings. Land ownership and land use where factors taken into account and refining the project location. through the design of the project and engagement of the landowners. The project has sought to reduce the overall land, take requirements and mitigate the impact on landowners by limiting land take required for construction, but at the same time ensuring enough space and flexibility is retained ahead of detailed design to ensure that the most appropriate construction practices can be employed to best mitigate impacts other than site selection.

01:13:27:29 - 01:14:03:02

The main reasonable alternative to compulsory acquisition is voluntary acquisition. The applicant has contacted all identified landowners and is seeking voluntary agreements to acquire the necessary land and rights. Negotiations are ongoing with affected parties to reach voluntary agreement. However, it has not been possible to secure all of the necessary land and rights at this stage. In line with the Dclg guidance, the applicant has continued to explore all reasonable alternatives compulsory powers and this is included proposing to make amendments to the order where that is possible and will Facility reaching voluntary agreement.

01:14:03:16 - 01:14:40:00

The applicant would not, for example, that the changes to access included in the notification of intention to submit a change request arose in response to ongoing and ongoing engagement with landowners and or a time being proposed to reduce impacts on those landowners. The applicant accordingly considers that this demonstrates that it has been meaningfully engaging with landowners, and it has been acting reasonably and seeking to accommodate requests where those are possible and practical, and the absence of compulsory acquisition. All of the land and rights required to allow five estuaries to be constructed and operated may not be secured, and by the estuaries would not proceed.

01:14:41:08 - 01:15:02:10

The applicant needs to have certainty that the required rights and land can be obtained within a reasonable timeframe, and to be able to evidence a certainty to funders. Given the very clear, unsubstantial policy support for the development of projects of this type. The granting of powers of compulsory acquisition to five estuaries represents a proportionate and legitimate interference with private rights.

01:15:32:14 - 01:15:32:29

Thank you.

01:15:33:01 - 01:15:39:27

To any affected party or persons wish to make any comment in that regard. In terms of what you just heard from the applicant.

01:15:41:11 - 01:16:13:02

Which apologies which of us County Council, this may or may not be the right time to ask you this question. So bearing in mind, um, the discussions that we've just had, but it does have a, um, a question on the compulsory purchase of an area of land immediately adjacent to the substation site. Um, if I could just take you to ask this question to the applicant through you, if I may, sir. Um, if I take you to the, um, application drawings reference you have here is, um, the department, I'm finding it or those are things.

01:16:13:04 - 01:16:44:09

Open app 006, app 008 or app 010 on the south east side of the, uh, area where the substation is going to be. But there is a field. You've noted that around the edge of that field is land. There's going to be compulsory purchase. Could you? It's just that I'm asked the question that land in the center of that, that's not your intent to compulsory purchase that.

01:16:49:09 - 01:16:52:06

I think might be useful to get the drawing up.

01:16:54:09 - 01:16:54:24

Um.

01:17:02:16 - 01:17:12:27

Okay. Thank you. That's that's on the screen behind you. This on your screen in front of you. Proceed. It's the area marked in gray, please. On the. That's it there.

01:17:19:24 - 01:17:27:28

As I said, it features in 006008010. I think it's quite 18. I think that's the one you have there.

01:17:28:12 - 01:17:42:04

Uh, well, let me give you for the applicant, um, as um, degree as depicted in the key is not subject to compulsory acquisition, that no compulsory acquisition is proposed in that land. Um, Mr. Kendall is very happy to explain what we intend in that area. If it would be helpful to you, sir.

01:17:44:03 - 01:17:50:07

I think it would. I think the examiner authority has kind of guessed at what we think's going on. But, uh. Yes, Mr. Kendall.

01:17:55:26 - 01:18:03:12

Adam Kendall for the applicant. Um, yeah. That land shown in gray is not proposed to be compulsorily acquired. Um,

01:18:05:00 - 01:18:05:28

the, uh.

01:18:28:15 - 01:18:52:10

If it would assist the examining authorities assumption is that what I think we're seeing is that the grey land reverts to farmland, and that the pink around it, in effect, is being acquired permanently. Um, to enable, uh, landscaping to be provided a screening is.

01:18:52:12 - 01:19:25:00

Have we The government gave the applicant? Um, nearly. Yes. So that is a permanent landscaping bill. That's Greens views. And we will have the appropriate topic experts here tomorrow if you want to interrogate that landscaping. Um, in terms of CA, nothing is proposed in that gray area. Um, we are not even seeking temporary possession. And they are it would be able to what we need to agree with the affected, um occupier of that land is where they would like an access point for that to be able to be used while we are putting in and maintaining the landscaping in the pink.

01:19:25:02 - 01:19:36:17

So the middle of the donut can stay with the current landowner. And we are not seeking to do anything on that. We need to be around the edge of that field, which is why there is a strip around the edge.

01:19:41:03 - 01:19:58:18

Uh, sir Mark, would you Essex County Council, if I may come back on that? That was my assumption as well. So thank you for clarification. And also thank you for adding the bit about the access, because quite clearly, without alarming accident and it can't be used for anything beneficial whatsoever. And obviously that's much appreciated. Thank you.

01:20:20:15 - 01:20:22:18

Mr. Pelosi, you have your hand up.

01:20:24:28 - 01:20:31:11

Yes. Thank you. Uh, Louis Pfeiffer, um, Stratton park farms. Uh, I'm

01:20:33:03 - 01:20:46:22

Galatians 3.2. We we we did put forward some alternative proposals on the route, and, uh, they've been discounted because of cost.

01:20:48:10 - 01:21:21:00

Um, one of the primary reasons was on the basis of cost, because the cable route would have to be longer. Um, now, the area of land that we propose was included in the survey areas as well, and would ensure that potential future residential development would not be affected by this compulsory purchase. And we think it's in the interests to explore that further. Now, the applicant gave reasons why they couldn't do that.

01:21:21:02 - 01:21:46:24

But, um, our perception is that that was done because it was easier to go on the alternative route. And in my mind, you know, cost is not something that should be a major factor here. Um, but there are other factors that should be considered. So. And that land was all within my client's property and control to give this alternative route. Um,

01:21:48:20 - 01:21:53:07

So I wanted to have that highlighted to the inspector to,

01:21:55:02 - 01:22:07:09

um, realize that, you know, we we feel from our point of view that there is an alternative that could be explored, that would would mitigate the impact that this scheme will have on, on our client's property.

01:22:12:15 - 01:22:36:12

Thank you, Mr. Fellow. You you've mentioned, I think, previously, uh, development land. We we don't have any details of that. Is that something that you're going to be including in a written rep, uh, when the written reports are formally to be submitted so that we have a better understanding of what your client's ownership is and what they potentially are proposing to do on, presumably, some adjoining land.

01:22:37:18 - 01:22:55:06

Yes. Yeah. We can we can submit all that as part of the written reps. That's that's fine. And we can give some more details of what what the other points are about where our alternative routes are. Yes, there are some complications, but, um,

01:22:57:04 - 01:23:25:17

I, you know, we we feel that there that that should be explored in further detail and that shouldn't just be discounted because of a matter of cost. Um, in this instance, because it comes at a greater, you know, it depends how you value the cost, isn't it? You know, cost to the developer, the cost of local community by having less potential development and all the rest of it and facilities that might be a bigger cost, for example.

01:23:34:23 - 01:23:42:12

Does the applicant want to make any comments on what Mr. Powell has just said, or do you want to wait and see what is emitted in writing?

01:23:46:10 - 01:23:56:25

Let me get you for the applicant. We would like to wait and respond in writing. Once Mr. Fellows put in submissions, if we possibly could. Please. We don't want to accept that. The only factor that drove this decision is cost.

01:24:01:15 - 01:24:15:24

Okay. Can I just make one further point about the temporary possession bit, which I didn't mention before, and that, um, on the land, uh, on my client's land, there are some,

01:24:17:15 - 01:24:29:24

uh, what we think inconsiderate temporary possession land. Take, um, to mitigate some hedgerow habitats. Um,

01:24:31:09 - 01:24:43:06

and I think that's been poorly planned out. We'll, you know, from a, from a management point of view of the land, from a land take point of view. We think that's been poorly planned. And, um.

01:24:45:14 - 01:25:20:19

Uh, it seems, uh, unnecessary. Or there are, I'm sure, alternative ways of reducing the land. Take. I suppose it's what you consider to be a greater harm, isn't it? And my clients who are farmers and commercial farmers, um, are not happy with that, with, effectively a hedge plant being considered as greater value than their land holding, which they're growing root crops and high value crops, etc..

01:25:21:26 - 01:25:32:04

Um, so that is a, I think, a matter of explored. It seems to me that the easy route has been taken by, as I said earlier on in the earlier session, that

01:25:33:24 - 01:25:47:00

it's often easier just to, uh, take more land because the developers value that to be relatively nominal in cost in Consideration to alternatives of taking out some habitat somewhere else.

01:25:53:06 - 01:25:57:24

But again, you probably want me to put some more details in there. Submission and written representations, I'm guessing.

01:25:58:26 - 01:26:19:19

But potentially useful. But we are also, in a little while, going to come to what I described earlier as some technical questions, uh, which might cover, um, some of your concerns. So I think we'll hold off, um, going too much further down that particular path, do I?

01:26:20:18 - 01:26:22:14

Yeah, yeah. Hi.

01:26:22:22 - 01:26:53:21

Tamsin, fairly, on behalf of TNR, Valley Farming Partnership and T family and Summer Sons Limited, uh, the farming partnership farms the land at the substation location on the map that you just showed. And t Fairley and Sons are the landowner. We have particular concerns about the extent of the freehold acquisition. You said as part of your earlier, um, sort of introduction at 3.1 that the land to be acquired freehold is operational, which means you need to be able to control that in perpetuity as long as the project life.

01:26:53:23 - 01:27:00:07

So does that mean you consider the landscaping to be operational land as part of your proposal?

01:27:09:20 - 01:27:15:00

I do have another question, but did you want me? Did you want me to do all of my questions first and then come back?

01:27:15:04 - 01:27:17:09

No. I think be useful to take that point first.

01:27:19:14 - 01:27:40:12

All I could do for the applicant, the landscaping has to be there for as long as the substation is there, because its function is to screen the substation and viewers. And again, we will have the appropriate experts to interrogate that that landscaping provision here tomorrow, if that is helpful. But fundamentally that planting is there to screen the substation. So it has to be there for as long as the substation.

01:27:42:17 - 01:27:46:04

So you would say that that's operational land. Okay.

01:27:47:22 - 01:28:19:11

In terms then of the extent of the land you require. Why do you feel that that needs to be acquired on a permanent basis? Because that's not my experience on other schemes where landscaping is taken, potentially that land could still go back to the landowner. And in this particular case, at the first meeting that was had, there were various field corners, edges around the substation that was considered operational, which in my understanding is about 15 acres of what has now increased to 75 acres of land take.

01:28:19:13 - 01:28:35:24

So why do you need to take 75? If 15 is the substation and why can't that land come back to the landowner, even if it is subject to planting and those types of things? When we were told that that would be okay in the first meeting, and then all of a sudden it changed.

01:29:24:14 - 01:29:56:19

A problem for the applicant to address the why it can't come back. It's essentially because we are required. This is mitigation that we are proposing this landscaping and it's mitigation for the substation which we will be required to ensure as they are performing as function is monitored, and that we can maintain and retain the standard to perform that function. So we need to be able to control it. So it would, even if the underlying title was in the name of the farm owner, they wouldn't be able to do anything with this land because we would need to be able to control it.

01:29:56:21 - 01:30:18:28

Given that we're doing that for the life of the substation and SEO terms, it's very difficult to justify trying to take rates to do that because of the level of long term interference with the land owners use

of land. We didn't think in terms of meeting the CCA tests that would actually be acceptable, and therefore its proposed for freehold acquisition because of the level of interference as opposed.

01:30:51:24 - 01:30:53:16

Did you want to come back on that point or.

01:30:54:12 - 01:31:33:12

I'm not sure that I agree with your point only because it's not my experience elsewhere. Um, I think National Highways as an example, there's various situations where land is planted and the contractor has an obligation to maintain what they plant. But that's not always, um, on in perpetuity. And I think our concern would be you can see on that plan you put up that there's a house that's been left in the middle of that. And as the occupier of that house, it would be preferable to have some control over that planting almost to ensure that actually it is maintained, because I'm not sure that it would be maintained in the long term.

01:32:10:29 - 01:32:43:21

Let me give you that. Um, so I think we're starting to cross over, you know, more from CA to the points that they all would control and the requirements which, which would control, which would be the long term requirement for and maintenance or planting. Um, again, we would have the appropriate topic experts here tomorrow to speak to that rather than the CA for it. We consider that this this planting which performs a screening function, is necessary mitigation for the substitution and being told that we have to be able to control it, keep it in place.

01:32:43:23 - 01:32:55:13

And well, I fully expect to be obligated to do so under the requirements. Um, I do feel we're starting to get talking about minister planting. We're starting to get slightly away from the see.

01:32:58:08 - 01:33:31:27

I think the concern is, I'm not sure how you get from 15 acres of a proposed operational substation to 75 acres of land just for screening and landscaping. And I think in some initial conversations, it's been alluded to that potential areas have been left for future expansion and various other things, and then they've been glossed over at a later date. So as a landowner, it's very difficult to have a productive negotiation if you're not being given the full picture. And I don't see how you get from 15 acres to 75 85 acres just as landscaping.

01:33:40:00 - 01:34:24:24

I think rather than taking up a lot of hearing time. Um, if if the the family fairly group of farms for want of a better way of describing if you can make that submission. Um, and then the applicant can clearly respond to it and then as and when we go forward, either another acquisition hearing or later on through written questions and or issue specific hearings, we can pick the point up and we'll have a fuller understanding from both sides as to where the applicant has got to in terms of designing, um, its scheme to this point and what the implications are, or for the farming side of things.

01:34:27:01 - 01:34:27:23

Thank you.

01:34:40:29 - 01:35:05:08

I think before I go on this agenda item, start asking a series of questions. This might be an appropriate time for an adjournment because we've been sitting for about an hour and a half. Um, and while it perhaps is easier for those of us sitting in the room to sit for that length of time, there are a number of people who are online. So I think I'm going to propose we adjourn, and we adjourn for 15 minutes and return at,

01:35:07:06 - 01:35:09:16

uh, 4:25.

01:35:12:28 - 01:35:21:04

Is everybody content with the German to 4:25? Okay, this this hearing is therefore adjourned until 4:25. Thank you.