

# AUDIO\_\_RAMPION2\_CAH1\_CONTINUED\_SESSION2\_21\_05\_2024

Tue, May 21, 2024 12:18PM • 1:43:26

00:08

Good morning, everyone. Can I just confirm everything hear me?

00:13

Please also confirm that the live streaming of this event has commenced.

00:18

Thank you. It's now 9:30am. And welcome back to this compulsory acquisition hearing in relation to the application made by rampion. Extension limited for the proposed ramping to offshore wind farm, which is now resumed. My name is Richard Morgan. I'm a chartered engineer and founder of the Institution of Civil Engineers. And I've been appointed by the Secretary of State to be a member of examining authority for this application. Can I ask my colleagues in the room to introduce themselves again, please? Yes, good morning, everybody. My name is Richard Allen. I'm a chartered town planner. I'm an examining inspector and I've been appointed by the Secretary of State to be the lead member of the panel of inspectors to examine this application.

01:05

Good morning. My name is Claire below. I'm a chartered scientist and a member of Siam at the Chartered Institute of Water and Environmental Management. And I'd been appointed by the Secretary of State to be a member of the examining authority for this application.

01:19

Thank you and online.

01:22

Good morning. My name is Steven Rani. I am a chartered town planner and a member of the roll companion Institute. I've been appointed by the Secretary of State to be a member of this examining authority for this application.

01:34

Thank you. So together with Mr. Joe Sullivan, who's not attending today, we constitute the examining authority for this application. For those joining online in the arrangements conference and those who are present in this room, you may already have spoken to Lily Robins is the case manager for this project. She is supported by Georgie Hannigan and other colleagues from the case team at the planning Inspectorate.

01:58

On Friday, the 17th of May last Friday, we discussed the high level and principal issues on land rights. Today we'll move on to discuss restrictive covenants, individual plots and the power source on those plots.

02:12

Can you please make sure that you've turned on muted your mobile phones, the toilets are located just outside this room. There are no fire alarms scheduled for today. An emergency please follow the emergency exit signs. We'll allocate sufficient time to each issue to allow proper consideration of them. We'll probably take a break at around 11am for about 20 minutes. We'll break for lunch around 1pm. Usually for an hour, however, we may put forward a slightly shorter time. Depending on how the agenda is progressing. We will also take an afternoon break, we're still going around 3:30pm.

02:52

Should the consideration of issues take less time than anticipated we may conclude the hearing as soon as all relevant contributions have been made, and all questions asked and responded to.

03:05

Equally. If the discussions are to take longer than anticipated, it may be necessary for the examining authority to alter the agenda, remove areas for discussion, and to defer written questions. The agenda is challenging and we want to get through a lot of information. And to assist us in this task. Our examining authority will try to keep the pace of discussion going. And we resist repetitive comments and be made.

03:31

We hope that you understand and will assist us in this process. To the point we get the right answers to the questions we're going to ask. Therefore if you cannot answer the questions that have been asked or require time to get the information requested, then rather than giving a restricted or potentially wrong answer, for the smooth running of the examination, can you please indicate that you need to respond in writing? Or we can then defer the question to the next round of written questions or later or a later hearing.

04:01

Exactly authority has an attendance list of those persons present today. And we note everyone who gave advance notice or wishing to attend

04:10

is present. It's not our intention to actually do full introductions. However those intention to speak please can you identify yourselves and clarify which matters you'll be speaking on to starting with the applicant Miss Moss? Would you please introduce yourself and the applicants advisers?

04:28

Thank you sir Michelle Moss from eversheds Sutherland appearing for the applicant tend to my left enough the team to introduce himself.

04:38

Vicki port train on the land Transaction Manager for the applicant.

04:44

Richard towelroot on behalf of the applicant, I'm the assistant engineering manager on the project.

04:51

Lucy tebbit on behalf of the applicant in respect of land matters.

04:57

Nigel Alberta of course join us

04:59

on

05:00

Half of the applicant

05:03

on the slope and WSOP on behalf of the applicant.

05:11

There we also have a couple of team members online, including Mr. Kirby in relation to ecology matters. And I can't quite see the full list, but we may have Neil Marr bruh in relation to planning matters. Or if not, he may be joining later on. I can't quite tell if he's

05:29

okay, thank you.

05:31

Turning now to affected persons and their representatives, the order I go from now to check that your present is the order in which I intend inviting representations when we get to agenda item 10. So can I check if Mr. Beard is present, please?

05:47

Yes, I'm here.

05:50

Thank you, Mr. Baird. Mr. kissel? Are you present?

05:55

The Morning Mr. Kittel?

05:58

Mr. Goring and Miss Hatton. I can see you're there.

06:02

Mr. Killam.

06:05

Are you Mr. Killam?

06:08

Mr. Dixon,

06:10

and his representative Miss Atherton.

06:18

Okay, thank you. Um, Mr. Mathis, and I believe you're appearing for green properties.

06:25

And Mr. Mole as well.

06:27

He Thank you.

06:29

So Mr. Fishel.

06:34

here on behalf of sweet Hill Farm Yeah. And I'd like to do

06:40

and Alex dolostone from Winco Sherwood Okay, thank you.

06:45

Mrs. GRIFFIS? I'm Janice Griffith. I'm here for Marion farm and the dairy farmer.

06:51

The morning Mrs. Gryphon.

06:55

Just check I've got a few I think they may not be intended attendants Mrs. Lightbourne to be sleeping here.

07:04

No,

07:05

Miss Methodist?

07:07

No. Because he Mr. Woosley.

07:12

Good morning, sir. It's Mr. Worsley represent Laureen because farm morning. And lastly, I've got Mr. Campbell. Good morning on the island. Good morning. Now have I missed anybody in the room or an online who wishes to speak today?

07:29

So, Ian graves of DLA Piper, I'm here on behalf of national grid electricity transmission.

07:39

Mr. Graves, do you wish to speak on any item in particular or?

07:44

Yes, it's in relation to the national grid plots that are affected a bolney substation. Okay, thank you.

07:55

Okay, can I please remind you again of gpdr regulations and not to state any personal information you would want not wish to be on the public record?

08:05

Miss Moss, I'd be very grateful if the applicant would again make a note of any actions. We'll review these as the at the end of each agenda item.

08:15

Are there any other preliminary points that anyone wants to make?

08:21

Hello, Hello, Miss Sarah Marshall for National Highways we wish to speak on agenda item 10. There are a number of plots owned by national highways in which the applicant is is seeking acquisition of rights. Thank you, sir. Okay, thank you.

08:39

Okay, any further query points at all? Anyone wants to raise?

08:44

No, if there's nothing else that I'll hand over to Miss Allen, for item nine, which is restrictive covenants.

09:05

Thank you.

09:08

So under this sites, and there are there are restrictive covenants I just want to talk about briefly but there are a couple of other matters that I do want to address in respect of the DCO in the in these parts.

09:22

Before we go on to item 10, and hopefully one of them may assist with item 10. I'll come to that. In due course. With respect to

09:34

the restrictive covenants, I'm going to address my question to you miss moss and

09:40

if you need any of your colleagues not so I'm sure you're introducing. So here I'm you provided a fairly detailed response to my question de or the excise questions DCO 1.7, which I thank you for and I think because it is quite a long and complicated answer. I just would like to use this session.

10:00

Just to make sure I understand the points and I seek your guidance really just to

10:06

make sure I've got I've got it right so that's really all I'm seeking in this in this position so.

10:16

So as he set out article 25 deals with allows the undertaker to compulsorily acquire rights and impose the restrictive condition

10:25

oppose restrictive covenants on land subject to article 23, which is the order land. So that's the Knesset. Yes, thank you. And then this is subject to articles 25, two and three, two restricts compulsory acquisition powers over land, specified in column one of schedule seven, for rights only and impose the covenants. And

10:49

you state, I think he said on Friday as well, but you state in your response to DCO, one, seven, or schedule seven,

10:58

which is the blue lands the the rights is needed for four reasons. cable connection works, cable routing, access, and landscaping, environmental mitigation. Those are the four

11:14

going off of also shedule seven here where I think they've separated out so

11:21

is that all right, so far? Nothing I've said is incorrect.

11:25

There, Michelle must for the applicant. Yes. That the the broad topics that the different packages cover, there are some specific names for for packages that are more bespoke, for example, there's a slight difference between the landfall and intertidal area, right versus the others. But in terms of the broad areas where the rights cover that that's correct. Okay. And then on page 84, of the DCO, the draft DCO, which is in shedule. Seven. And again, there's no malice in what I'm saying here. I'm just I'm just seeking to clarify that I've got it right, we see that they are the plots and the reason and the proposed restrictive covenants for

12:11

for those underground cable connection works.

12:15

And then we turn to page 92, where there are

12:21

a few more plots listed out. And those are the

12:26

restrictive covenants proposed for the cable routing.

12:33

And then the same again on page 98, where we have the proposed restrictive covenants for the landscaping, environmental mitigation land. That's all that's all correct. Take.

12:49

So I just want to be clear that for access, there is no for the lands you require.

12:58

For access, there is no restrictive covenants on those plots is there, you only need them for the other three. That said, that's correct. The the construction act is right, the operational access rights, there's no restrictive covenant associated with those, those rights in their own right. Thank you. So I think the point I want them to just be like this is where I seek your guidance, the restrictive covenants that are set out in schedule seven of the order.

13:30

They cannot be deviated from they are the only you couldn't bring it when it came to imposing restrictive covenants, depart from the list this list here, or maybe you could do away with one of them. But there's no departure from this. These are the restrictive covenants for those plots is I just want that's the point I'm trying to understand, you couldn't suddenly impose more latest age. That so that's correct. The the applicant may find it can reduce down within the package, depending on the precise nature of the the works over the plot, once everything has been constructed, but it cannot increase and it cannot include a different purpose nurses and those that are prescribed and shedule. Seven.

14:20

And just for my own benefit when you if you weren't

14:25

if there were plots where there was no agreement by the time the secretary of state makes a decision, and therefore you are relying on the CEA powers as set out in the order and the restrictive covenants as set out in schedule seven. Do you then go on to provide individual restrictive covenants for the plus owners or does that cease from that period?

14:51

The precise version of the restrictive covenant which obviously has to accord with those in sheduled

15:00

All seven would be tailored specifically to whatever has physically been constructed and the requirements of that particular parcel. And then what would happen when the powers are exercised if they have to be exercised is there's either a general vesting declaration which specifies precisely what is to be imposed or the alternative method is the notice to treat which again, specifies what needs to be imposed and they are bespoke to the particular land parcels contained within those authorising instruments.

15:40

But they must be they must adhere to or be lesser than those set out in the order said If correct.

15:54

Thank you, Miss Moss, I'll turn to affected persons, whether there's any here that want to make any comments on the restrictive covenants particularly, I specifically wants to know which if any covenants

16:11

are found to be

16:14

onerous or you don't agree with. And in particular, if you can explain to me whether this particular covenant is has been not used elsewhere on any other order.

16:28

Does anyone wants to talk about restrictive covenants?



16:33

No hands in the room?

16:35

No hands online.

16:38

Okay. Thank you for that didn't that deals with that matter?

16:44

Okay, so whilst, as I say, not strictly restricted cabinet matter, I did want to now talk about

16:54

article 3311.

17:03

Is page 33 of the order that she's not sorry, I've got the track change version, actually, which, which is the page numbers are different. So just realise that apologies say it's fine. My internal numbering is possibly different to anybody else's as well. But I know which points you're you're picking up. Thank you.

17:23

Now, I didn't quite understand how this works, Miss Moss, because here, you have three plots 22, forward slash 2833, forward slash 14 and 33, four slash 16. And from here on, and I'm going to just refer them as 228 and 314, etc.

17:42

Now, I understand from the wording of these plots that you intend to use them as for temporary possession.

17:52

But that

17:55

you may you reserve the right to have the rights to them. That that is that that's what that says, isn't it?

18:03

So yes, that's correct. It's these three parcels alone appear in both shedule. Seven, which is new rights and also appear in shedule. Nine for temporary possession is only these parcels which the applicants have taken that approach and the primary reason, which is REITs been drafted in that way, is because the temporary possession purpose of those parcels is is very different to the permanent rights package. And therefore the applicant wanted to signal that when it takes temporary possession of those parcels it is for something Express that's not covered by the wider package. And that that differs the for example

from say the rest of the cable corridor where there's clear cable rights and the temporary possession flexibility which the applicant intends to use this for something that's exactly the same as as what's in the order rights already. So this was intended to provide clarity to the relevant parties.

19:20

Thank you, um, maybe in that is why I'm getting a little confused. So what if the Secretary of State was mine was again mining to make the order? What power would heat would they be giving to those plots of land? Would it be temporary possession or new rights?

19:40

So it would be both visited relevant purposes, prescribed by venue schedules. Can you do that? Secretary of State give both short is usually one or the other, isn't it?

19:54

So it's certainly been been done in this way before. There are old items

20:00

allege that there are alternative ways of of drafting it.

20:04

But there can be a power for Express power for temporary possession for one purpose in this case, the landscaping works, for example, and then clarity that the permanent purposes is different in terms of the, for example, the operational access rights. The the alternative or an alternative service, which the applicant signalled in its response to the relevant DCO question is to just include the parcels in the new right column and make it clear that it intends to take the still permit the temporary possession power and that second limb of article 33. One A to be used to take temporary possession of any order land, but be clear in that drafting that it includes these purposes, that is an alternative way of doing it. And so if, if it would assist, the applicant can take that away and draft it in that way, if that would be preferable? Well, I think one of the options I was going to put forward to you was was that almost that it felt to me like it needed to be reversed that because it seems to me that you're seeking

21:13

the rights over these land, but then you may relinquish those rights to temporary possession.

21:20

Because the order as I see it, would grant you the rights over that land,

21:26

says he would would at present would grant the new rights over the land for the purposes in Title Seven, but would also permit temporary possession to be taken first, for the different purposes that are in shedule. Nine, okay.

21:54

So,

21:56

even though Sorry, I'm only asking you so I'm clear.

22:01

In the first, even though the powers over those plots would be for new rights. You're saying that article 3311 prevents you from taking exercising that right in the first instance, that you would be taking temporary possession over it, but then exercising the right if you subsequently needed it.

22:24

Third, yes, I think so there's, it be taking temporary possession first for one purpose. And then subsequently, the way that article 33 work that allows you to take temporary to take the permanent acquisition thereafter for another purpose,

22:41

which is in that the way that these were works would have to be staged, because necessarily the temporary landscaping works, for example, needs to be done before the the PERT the permanent, right? So but what 33 does do is make it clear that

23:01

you cannot take temporary possession of land.

23:07

When you have already exercised your permanent powers, that's one restriction. So it's absolutely clear that you have to take the temporary purpose first, and then the permanent power

23:18

afterwards.

23:21

There if it would assist, I can look at some we can take this away with the alternative drafting, if that would be thinking,

23:29

multiple ways of dealing with it. I think I would I'm I'm struggling to understand this. Because

23:36

as I see it, the order is set out that this land would be having new rights over it. This is the in that they would have rights given to you. So I'm not quite clear. Firstly, how you intend to use those blocks as worded in the order. And moreover, what the trigger point is for you to decide, actually, no, we do want the rights over them, or we or we will leave them as temporary. And then subsequently, presumably, if they're only temporary possession, you will then relinquish the power over those plots. But again,

24:08

I'm not clear how that set out. And that's actually might bring me on to the third point that I'm about to raise. So yes, if you couldn't have a look at that, again, that would be very, very helpful.

24:20

So probably, as I say, it brings me quite nicely Miss moss on to the third point I wanted to raise, which is on Friday.

24:28

Remember I asked you about that same point about relinquishing power over land that you didn't subsequently need. And you came back you said to me that whilst there was no power in the article that compelled you to do that, you would be bound by critical down rules. I think you said on Friday,

24:52

about that, you know having to give it back. I want to put to you that there may be

25:00

In a situation the Secretary State doesn't accept that and feels that there ought to be something in the order which requires a ceding or relinquishing of power over land that you subsequently don't need. And I think this is particularly

25:22

important because a lot of our a lot of the effective persons I think will be coming on to talk about in article 10 about the power that the the extent of the order land. And so I wanted to put to you and I appreciate I'm springing this on you, so I don't expect you to respond to it today. And I would like you to take it away, is to potentially insert wording in article 25.

25:49

Preferably seven,

25:51

which has something along the lines of the applicant will cede relinquish powers over the remaining land subject to paragraph one wants the cable corridor location and its width had been established and constructed as part of part three shedule one requirements 23 Now, those are my wording mismas I'm very happy at this stage for the applicant to to put forward its wording that it's thinks could could be inserted in there. And I wonder whether such wording would would alleviate some of the concerns of the affected persons. And we may hear that in the next item.

26:30

In the event that the applicant doesn't agree that such wording is needed, I would nevertheless like such wording to be put forward on and without prejudice basis.

26:42

In case the XA does consider such wording is necessary or and or the Secretary of State

26:50

also agrees having regard specifically to this application in the order limit wits. So

26:57

yes, that's what I wanted to really sound that unless you want to come back specifically Miss moss on that. I suspect you want to consider it and talk it over. But I would like some form of wording either in the order or separated with honour without prejudice basis.

27:15

Sir, I'll take instructions and we'll we'll pick that up as an accent. Okay. Does any effective person want to come back on? on anything that I've said there? Or?

27:27

No? Yes. Could I just say I wholeheartedly support that many. Thanks. Thank you.

27:36

Kay, any other comments from anyone in the room?

27:41

And online?

27:44

Now, okay, thank you very much for that this motto is very, very helpful.

27:49

So nothing further from me on Item line. So I'll hand back to Dr. Morgan, item 10. Thank you, Mr. Allen.

27:56

So Turning now to the main agenda item for today, item 10. And that's cite specific representations from affected persons. Before we start, like, Please stress again, that we're not expecting complex legal arguments from affected persons and their representatives, without like a outline of their case, summarising written representations and highlighting outstanding issues and concerns. The examining authority may ask questions to clarify or get a better understanding of issues and or invite the applicant to comment.

28:29

Okay, so

28:31

using the running order, I explained earlier, we're going to start with Mr. Baird, who's on line.

28:40

Mr. Bear, would you like a plan displayed on the screen? Would that assist you?

28:45

Not necessarily. It might assist others I think.

28:48

Okay, which would be the most appropriate because I think your holdings, I think it's one b one and two on the land plans sheets.

29:01

You know, which particular sheet appropriately or that sorry?

29:09

Yeah, obviously applicant. Could you assist?

29:13

My job, Robert, on behalf the applicant if you turn to sheet one

29:18

onshore, and and could you get that on the screen? Please?

29:24

If there is spare, can you can you see that?

29:27

Yes, again. Is that the area that you actually want to talk about? I mean, yes, and certainly further north.

29:35

Okay.

29:38

So if you'd like to give you representation, highlight any concerns and issues that you've got? Sure. I've written a statement here. I'm not a natural public speaker. So the bed family we remain supportive of the benefits of offshore wind energy. And we're grateful for this opportunity to submit further comments. I was unsurprised to hear that our web has only secured three signatures. The 100 Nate power

30:00

sees our own experience has been quite perplexing and has involved absolutely no negotiation whatsoever. Despite what I heard Carter Jonas tell you on Friday, of course, I cannot speak for other landowners. So here follows my own experience. We farm the land at clumping where the cables are proposed to make landfall and approximately 2.3 kilometres of easement running through our farm is not an insignificant party. Also bearing in mind that our web proposed one of their three works compounds on our farm. I want to give you one example of one sticking point where we have not been put in a position that we can make informed decisions to commence negotiations with our web. We first met with our web representatives and Carter Jonas on the 12th of August in 2021. At my house, one of our major sticking points that you will have seen in my ongoing objections is the prohibition on tree

planting. We have made our web aware at every opportunity of our rewilding ambitions and the potential conflict that it has with their proposals. At the meeting in 2021, they brought with them a pamphlet from UK gas networks that explained that gas pipes can fracture from tree roots. To be honest, it was ridiculous and frankly, disrespectful to our intelligence, and we pushed for a credible response. We've waited nearly three years to get a credible answer from our web about tree roots. And despite multiple meetings and representations. Just yesterday, we received it from Mr. Oliver Kirkham. I'm sure you can agree to receive it on the eve of my giving evidence. So this hearing speaks volumes about the desperate situation that our web now find themselves in. So I concur with your comments of Friday that the minister will be anxious to know why only three parties have signed, I cannot speak for others. But we were simply not put in a position to even to begin to negotiate with our web until all the material facts were given to us. And to be clear, this is not the only sticking point that we are waiting for a response from our wa on. I will read you my extract from my objection response of November last year, which you will have seen on the 27th of June 23. The beds received letters in relations to negotiations concerning voluntary acquisition of REITs. Upon taking advice, the beds were simply not in a position to sign those heads of terms, as they were severely deficient in detail, without prejudice and subject to contract for contracts that we had not seen. It included a 10% incentive bonus if we signed within six weeks, on the third of November, being one working day before the close of consultation. The beds received the template contracts referred to in the earlier heads of terms being an option for grant of easements and a deed of grant of easement for a term of years.

32:59

The beds want the planning Inspectorate to be aware that they are ordinarily professional business people managing a larger state and a frankly unused to this manner of negotiation. Due to a lack of information from our web, they are not in a position to sign the June 27 letter and have not had time to consider the third of November templates bearing in mind this was at the point of my objection. It would therefore be enormously unjust for the inspectorate to hand out web CPO powers in the alternative of what must be fair negotiations between fully informed parties. The beds are put at a severe disadvantage, but remain willing to enter into rational dialogue with RT W E. Now that objection was sent to Vaughn way Hill James Diller Sandro of our web, and Nigel Abbott of Carter Jonas who acknowledged receipt on the sixth of November 2023.

33:53

On the third of January, we received an email from Mr. Abbott stating that our web engineers would like to undertake a site visit and a meeting.

34:03

It took until the fifth of February to get a response from Mr. Rabbit. A full month had passed again, but he requested the meeting for our web and engineers are still keen to meet with you. To be clear, there was absolutely no mention of contract negotiations. After more toing and froing. A suitable date was agreed upon the 12th of March. And Mr. Abbott would be accompanied by Oliver Kirkham, our web lands team and Richard town a router of our W engineering team. An email on the fourth of March declared I would like to propose that the meeting is primarily to discuss outstanding issues in relation to the key terms draft option, draft deed of easement documents. So this was the first time on the fourth of

March that are who indicated that they wanted to talk to us about those those contracts. The meeting was held at my farm house. I went

35:00

Repeat the extensive discussion that took place about our November objection and concerns relating to biodiversity net gain rewilding and our ws proposal to use an important development field as a storage compound. But these engineering points and responses to our consultation points dominated the meeting. It was almost an afterthought at the meeting, as as it was closing that any discussions about key terms or draft documents took place? There was absolutely no attempt made by our W E to negotiate those terms. They said they would take away our comments and get back to us. So since that meeting on the 12th of March, we've had absolutely no follow up correspondence received from Carter Jonas or our web. Until 7pm. Last night, I received an email from Nigel Abbott of Carter Jonas, who's in the room there with you, which I think given the circumstances of this hearing, is tantamount to witness tampering. And amongst confusing barrage of numbers, the final paragraph threatens, we would like to reach a voluntary agreement with you, though, if we are unable to we will have to rely on the use of compulsory acquisition powers to temporarily occupied the land. Of course, our web has not earned those powers. I have responded to Mr. Abbott urging our W E. To negotiate on fair terms.

36:24

At our meeting of the 12th of March, our agent Andrew Thomas raised some concerns on our behalf by asked me to send his notes of the meeting. Would you like me to read them to you? Or do you already have Mr. Thomas's representation?

36:40

Could you please summarise them? So the points that we were raising were relating to, so farmers would not be able to undertake routine work such as improving farm tracks, or laying drainage baits without first seeking the consent of our web, there was no clarity on on costs, specific timescales. Another matter that we raised was to do with landowners being liable for the costs and dealing with any natural or manmade contamination that the applicant might find on the land.

37:13

Even though the cable was being laid through registered landfill sites, previous conversations were about the the use of the future use of land for residential or industrial development.

37:27

The agency confirmed that it would be possible on the easement strip, but the contract said otherwise. Of course, the cable is severing the housing allocation, the Legger that didn't Hampton economic growth allocation on our land, so it said was part of it. We then can't cross over that easement with drainage ditches and pipes. Farmers are being encouraged to diversify into natural capital. And we've we've had grave concerns about these tree roots, as I've already mentioned. And we've we're still we only just got the clear answer yesterday from Mr. Kirkham.

38:01



And the contracts also contained options where the our web could plant trees wherever they liked, at any time on our whole estate, not just within the easement corridor itself. And that was of grave concern to us. So, from my perspective, I can only conclude that our web and Carter Jonas are trying to somehow scuttle their own application. They flatly refused to give us requested material facts. And that's and these are facts that are not contained elsewhere in their volumes of reports. Their result of three signatures out of 108 speaks volumes. And you are right to warn our web that the minister will take a dim view, there's been no meaningful negotiation whatsoever, just a confusing strategy to impose Unfair Terms and they should not be readily granted CPO powers for their poor conduct. I therefore implore our web to instruct Carter Jonas to without delay, provide all the requested information come out of their offices onto farms and commence those meaningful negotiations.

39:01

Okay, thank you, Mr. Bed. Miss Moss, would you like to respond when you just heard?

39:08

So there's there's a number of points there for Mr. Bed.

39:13

In terms of the position regarding negotiations and responding to questions raised by Mr. Baird or his agent. I'd like to ask Mr. Abbott to respond.

39:28

Relate regarding the tree roots and

39:33

concerns about how drainage reinstatement might be undertaken, and also, how Mr. Bird may manage. manage his landholding by dealing with tracks. I'd like to ask Mr. Tanner Ruta to respond. I think Mr. Abbott's will also pick up the question regarding the Littlehampton economic growth area.

39:58

If I could hand over to Mr.

40:00

But first

40:05

I'd like to operate on behalf of the applicants start with the negotiation questions.

40:11

Whilst the land interests makes reference to little no attempt at negotiations,

40:18

I have been in correspondence with the land interest agent on a number of times, we've had

40:27

two teams calls.

40:29

And additional, we've have met on site three times. So we have discussed the matters that the land interest has raised.

40:37

And I do acknowledge that we may not have responded fully on all of those points. But we will, we will certainly do that in due course,

40:48

on that point, because I just press you, for a date when you go back to the landowner, where the end of this week, we'll have clarity, we understand when you can receive that information.

41:01

We can respond to the land to land address by the end of this week. Okay. We take action.

41:11

And in response to the question on the Lego development, we were made aware of this by the land interest, and we did consider a

41:25

revision of the cable route at this location. We have in fact moved the proposed cable route 50 metres to the west, that to allow the

41:37

development to proceed, as we have the view that that would not prejudice that development from

41:45

happening. And that has been formally recorded in our statutory consultation process.

41:54

Sorry, so you have looked at a diversion of the route gathered and we've moved and eta is not we've moved the route site. It was

42:04

the modified route number two in the statutory consultation documentation.

42:10

Yes, we moved it 50 metres further to the west

42:14

Bay, but it still impacts the LPGA.

42:18

It still impacts

42:20

Littlehampton economic routes. We we believe that by doing that we have mitigated the level of impact on that will not prejudice that development from happening. Okay, thank you.

42:34

And on the other points that Mr. Boyd has raised. So Vicki Porter and on behalf of the applicant with regard to the Littlehampton growth area, economic development growth area, there is an allocation in the local plan that partially overlaps with with the

42:52

DoD limits. However, there is no planning application yet. And the only information that is available is a very early stage Master Plan, which is several years old now, which allocates the area is recreation on public open space land. So there is no proposed area of housing or BUILT DEVELOPMENT that conflicts with our proposals at this stage.

43:17

Okay, thank you.

43:20

Richard Tanner wrote on behalf of the applicant.

43:24

Thank you, sir. And also thank you to Mr. Baird.

43:27

Generally speaking on behalf of the engineering team, we are striving to come back with clarifications around construction or the assets that we're seeking to instal as soon as practically possible. In this instance, it has taken longer than we had

43:47

hoped would do in getting back to Mr. Baird with a response on the on the technical question that you had.

43:54

Well, we'll take that away. And we'll endeavour to do that better going forward certainly, in response to the three comments here with regards to access tracks, so, I believe the question was around whether or not the the managers will be able to maintain or repair the the access tracks on the landholding

44:16

adjacent or over the installed cables and that is clarified in chapter seven of the order in article 24.

44:26

Under the cable restrictive covenant, be part one and two, if you would like me to read that out. Yes, please. Yeah, so in part one, the length of new hardcore access tracks does not require the consent of the Undertaker, when a man who acts as chamber or other access points serving the authorised development is located on the surface of the land, and are to the maintenance or repair of pre existing hard surfacing hardcourt surfaces or tracks with the same or equivalent surface or material does not require the consent of the undertaker when no manual access chamber or other access points during the authorised development

45:00

is located on the surface of the land. And certainly, what would happen when we get to closer to the design phase is that we take pre existing access weights that are serving the purposes of the timing activity. We take that into consideration and to ensure that there's no conflict of use during the operational phase of the development.

45:20

going forwards towards the point about tree planting, so Mr. Bear had concerns around the ability or the reasoning, why it is not possible to plant woodland trees directly above the power cables.

45:37

We've explained that in broad terms in in the meeting and there was a explicit request around evidence. Generally that is an established practice in the industry. However, we have provided a more detailed clarification to Mr. Baird, as he says regrettably later than we had hoped that we could get that to him.

45:58

I could read that out, if you would like me to.

46:02

I think what I really want to know is, you know, what's the whips

46:09

from the actual cables that you can actually plant the trees?

46:13

In? Yes, okay. So, so the cable easement width is generally 20 metres, there may be a deviation from the 20 metres as we go towards trenches, as the cables need to spread out. And

46:27

you would seek that, within that 20 metre corridor, you would be restricted of any sort of tree planting activities, certainly, or within that easement corridor to be correct here, that tree planting activities couldn't be taking place. Yes, and there to just very high level times, there's a direct physical risk from root damaging the cables. Because the onshore

46:52

export cables, they don't have the same type of protection, and steel armoring that we would have in the offshore export cables. And also, there's a sort of long term risk around degradation with fine roots penetrating the cable. And secondly, there's sort of an indirect risk of root growth near the transmission cables. And that relates to basically the thermal properties that we need to have

47:18

a very good control over in terms of the

47:23

the heat dissipation capacity of the soil is immediately adjacent to the cables in the trenches. And that relates to cable ratings that need to be specifically designed to allow the capacity from the wind farm to be exported to the substation. Okay, thank you. So there's no buffer zone outside the 20 metre easement with the trees

47:47

of the easement outside the easement.

47:50

That's not something to consider. Okay. Thank you. Third point around drainage, or did you want me

47:58

to go on to complete?

48:02

Need You? Okay, so the drainage. Thank you. The drainage point really is something that we would really pick up closer as we get into detail design where we have a drainage survey that will be undertaken prior to construction that takes into consideration the existing drainage

48:20

characteristics of the land where we're seeking to construct and a drainage management plan would be developed to ensure that there's no negative effect during the construction, but also following the construction.

48:32

And there's very established

48:36

practices and principles that are employed there. And

48:41

that that is that is also in outlined in our application, its commitment, C 28. Document, our EP 3049.

48:53

Thank you. That was all thanks.

48:57

And thank you for watching and on behalf of the applicant, I just want to pick up a bit more about the time period over which engagement has happened since the early consultation in 2021. And just to point out that various options have been considered by the applicant or either the the amendment of the cable route or consideration of alternative substation compound locations as well.

49:26

And

49:28

those have been considered your alternative substation compound location to the North was looked at and rejected because of archaeological and other in flood, flood zone matters. And those reasons were communicated back to Mr. Baird. So there has been

49:47

engagement and since since that period of timing, including engagement relating to Mr. Byrd's proposals for future development,

49:56

on the land which we understand no longer

50:00

imply?

50:18

Is there any further points you wanted to make?

50:23

And we those discussions, as I understand it also picked up on conversations about the wheel to wave projects that Mr. Baird has been speaking to. And I understand that our own ecological adviser has had conversations with him about the wheel to waive

50:40

project ideas and a lot of the habitats that are part of that project would be compatible with with the applicants proposals. Okay, thank you.

50:53

Yeah, Mr. Beige, because he wanted to come back on very, very quickly. So I've just come back on compatibility with habitat. So natural regeneration. We don't plant the trees, jays plant their acorns, and the wind blows the willow seat. And so it's very difficult for us to market this land for biodiversity net gain with this uncertainty hanging over us. We've only just found out yesterday that we now absolutely

cannot plant trees on there, they've given us some very robust reasonings. And it's not as I say, it's not as as planting the tree. So you know, what usually happens with a scheme like this is the pre works, landscape returns, post works. And so if it was an arable landscape, as we find now you'd expect it to be Erin arable afterwards, we were advancing plans to market this for biodiversity net gain before our web came on the scene. We made them aware at the right at the beginning, that there was this potential conflict. So when we looked at those contracts that were sent through that were looking at sort of arable based compensation values. It wasn't right, they needed to take account of this loss of opportunity that we were we were we were forfeiting as a result of their prohibition. Does that make sense? I think so. Yes, that's great. And, and if I can just raise one further point, that just to the top left hand corner of that plan, I think if you took the next plan, you would see that works compound field that our web proposes to use. So there's three of them on the entire cable route. And this is one of them. That land, as we've explained to our web was in advanced stages of a development promotion, and the promoter has has has gone away licking their wounds. Now, we've challenged our web to show us what other fields did they consider what other sites did they consider? And they didn't they haven't come up with any that's the only site and I and we think that there's a an unfairness about that, that they should have considered other sites. They've just chosen that one because it was convenient for them.

52:58

Okay, that's great. Thank you, Mr. bed. I think. I think we will have to move on now.

53:05

So we move on to Mr. Kittel.

53:08

Would you like a plan displayed on the screen?

53:11

Which you know, the plan number, I think it's about 20 I think

53:16

okay, can we have sheet 20

53:20

But it's on a number of different sheets, I think but okay.

53:24

That's one of the one of the issues.

53:39

Okay, first part of it.

53:47

My name is Graham kettle. I'm a farmer at landowner at selling to Manor farm.

53:53

Just southeast Storrington central South Downs National Park.

53:59

I'm a beef and arable farmer with and we run a very diversified business now with a cafe.

54:07

Political she's on a wedding venue.

54:13

In conjunction with many others, we find the plan supporting the applicants proposals are very vague. We've had a number of meetings with the advisors and we are still unsure how the project will proceed.

54:26

The cable route covering off on this covered by

54:30

more or less make out three separate sheets.

54:33

And I think the mapping could be more details.

54:37

The applicant is requesting use or fencing off or approximately almost 60 acres on top of the top of our downs on top of the South Downs. It's Ellington including the South Downs Way.

54:50

This is a significant, almost 2% proportion of our farm and an approximately almost a quarter our grazing area

54:59

your time

55:00

This is allow options with a cable route.

55:05

And we believe that the applicant should carry out necessary surveys to prior to requesting permission to be more precise in the area needed and therefore removed from farming use, the enormous area will severely impact our overwintering of our beef herd.

55:24

We have no alternative area on the farm



55:27

where we can overwinter cattle.

55:30

And also this home was part of our summer grazing programme.

55:34

restricted or no access to this era, as little as one year potentially makes maintaining the beef herd on our farm, almost impossible.

55:47

We're also told us a proliferation of access points and storing generic and we're wondering if they're all necessary.

55:55

Proper proposing a works access along the top of the downs requested from height from the height and estate to the cable route. Along a restricted byway across our farm, we haven't been given enough detail about this or any compound parking work work vehicles.

56:13

In addition, with the aforementioned 60 acres, this additional request will make the entire top of our our hill and almost unusable.

56:28

Also, we've had no clear information I feel about the deviation of the South Downs Way, which is an extremely popular footpath bridle and cycle path. Which feeds are diversified businesses. This is a particularly busy part of the South Downs Way as it was a car park at Chantry post, where people can park and go for a walk or go for a short walk.

56:55

We're very concerned about the detrimental effect this will have on our

57:00

diversified businesses.

57:04

I live in a very sensitive

57:08

area.

57:10

We're in a national park, I live in a grade two listed house next to a great one listed church.

57:16

I know that the cable router is a little way away from our

57:20

little hamlet, but it could have a really, really detrimental effect on our businesses. And we can't agree any terms

57:30

until we have more information about all these matters. And the so we can consider the detrimental effect

57:39

we have on our diversified farm businesses.

57:44

Hey, thank you, Mr. Kittel. So your main concern appears to be that very large area of your landholding that. Yes, we're told that it was needed more. Because the tunnelling under the escarpment the north face of downs, we're told that it's needed by the engineers to pull through cables, and

58:08

they just seem like a large area. Yeah.

58:12

Okay.

58:18

To know, specifically, which plots you're concerned about

58:23

the one on the view on the screen now. So we've got 19 One and 19. Two. Yeah, those ring around. So it is it is the whole of that block that area, because your day is subject to horizontal to racial Boolean proposals. Yep.

58:43

And basically, it is a very large area. Yeah. And as we heard earlier, wipe us out. That's our access all our water goes. All our water pipes go through that and

58:55

all the access of Southdowns where it goes across it, and

58:59

it's going to be very difficult. Yeah.

59:03

Okay. As we heard earlier, I think it's the current knowledge of of

59:11

the area for horizontal directional drilling, in advance of detailed site investigation. Yeah, I think it's as soon as this precautionary approach, needing to take potentially take additional land into HCD. But if we go to miss Moss, perhaps you could do a substantive answer to Mr. Gibson. So I will ask the applicants engineer to respond to that. And then separately, I just like Mr. Slow afterwards to just deal with some of the questions regarding what would happen regarding the public rights of way which Mr. It's always concerned about. Okay. Thank you.

59:52

Thank you. So Richard Donna wrote on behalf of the applicant.

59:56

Yes.

59:58

You've already alluded to this

1:00:00

requirement for the groundless deviation that is a precursor for the detailed design. And we've we've

1:00:06

brought this into the application, and the responses from in various deadlines already. So I won't go into detail there. Again, I just sort of expand on this sort of, we had a call with the landowner on the 30th of April, that involves also our civil engineering team, where we laid out the reasons for the wider boundary limits and how we would be approaching the construction there as an outcome of this call, we are undertaking to pull together basically the information

1:00:39

of of that crossing, and to come up with some indication that may provide some further clarity to Mr. Kittel, and his farming business in terms of the land areas, the space requirements and the activities that would be likely to be taking place at certain phases of the construction. We're still working on this. In fact, we've had last week consultant provide some of those answers that we were sort of putting together there. So we'll look to provide this to Mr. Kiddle, as soon as possible. And certainly, I think the other point is really that that the applicant is really aware of the sensitive nature of this crossing and the Southdowns. Scotland there. And this is also why we're employing mitigations, such as trenchless crossings in this area. Thank you.

1:01:31

Keep going on behalf of the applicant and

1:01:35

what Richard has just spoken through will Mr. Kittel, an idea of the land taken required and therefore the loss of grazing that might be expected or be it we can't fix where that will happen within that red line area for the reasons that Richard has previously explained in relation to that area of

1:01:55

area of potential HDD potential as crossing that would get firmed up in the construction method statement, which is a pp 255, where that would be set out and ready for discharge by the local authority.

1:02:11

Yes, thank you, I was going to raise this site. So as part of item 11, sort of the any other land, but I will raise it. Now, as Mr. Kibler, he is here and has raised it.

1:02:23

The examining authority, I've got to say, a bit concerned about the land take here. And I think we understand the reasons why you've, you've taken quite a large area of land here. But what we don't know is the extent of the order land for each option. Now, as I understand it, and we raised this at the last hearings as well, I think you've you've taken this and Mitchell Grove Park, you've taken quite air large areas of Otter land, because you have yet to decide which route the cables going to go is either going to go down a left arm or here at Sterlington. It's either two options, isn't it, it's a left or right. That's what this shows on the crossing plans is that changed. Richard Tanner wrote on behalf of the applicant. So this is a thing

1:03:16

which may cause some confusion on the in the crossing shedule we

1:03:21

identify certainly the trenchless crossing in terms of the obstacles. And then there are what we consider currently likely options. However, the real limitation in terms of where specifically a trenchless alignment will be constructed is determined by the location of the HDD drilling rig equipment in the in the trenchless compound within the limits of deviation. In works number nine. However, the direction of the alignment across the obstacle in case here, the terrain crossing and underneath the

1:04:01

gas pipeline is not constrained in our application as such. So we would retain that flexibility in order to

1:04:10

really seek the alignment that has the most favourable favourable ground conditions. And if that makes sense.

1:04:17

So the where the examining authority was looking at the trenchless crossing plans, which showed

1:04:27

two options here, a left and a right route. And then Mitchell grove where it showed three options. It was a left and right and one that sort of went up in the middle.

1:04:41

You're saying that's not actually the options available? The cable route could go anywhere within the order land that you're you're you're just showing today, so those crossing plans are not correct. Richard towelroot on behalf of the applicant, the crossing plans are correct they are labelled as indicative

1:05:00

alignments on the crossing plans themselves. It is the the overall.

1:05:07

The alignments shown on our current scenarios that were progressing, however, should in detail design, be an indication that there is a deviation that is outside of these, and we don't necessarily expect that to be the case, but we need to retain the option,

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then then that would be the detailed design construction approach that would be taken. And ultimately, this comes down to

1:05:33

the fact that there is uncertainty on the ground conditions. And if we constrain ourselves in terms of the construction design at this stage, now, then there's a risk for us to deliver a bill the to deliver the optimal alignment across these, these crossings. And I think that's that's about the situation we find ourselves in. And given the stage we're at in this application and this examination, and given that these are the two areas, Mitchell Grove in here, where the order limits are exceedingly wide, you're not in a position to further this for any further, you're not able to provide this examination. Without with a more accurate area of where the cable routes would be, you're still in the same situation as you are at the outset of the examiner, exactly the application is that that's what you're telling us

1:06:28

written around and tolerated on behalf of the applicant. That's correct. And it's not just because we haven't undertaken the detailed ground investigation yet. And there are good reasons for that that related to costs and land aspects. However, the ultimate reason is also that in the programme, that the applicant is progressing, that ultimately, following the consent, we will be undertaking these grant investigation works, but it's ultimately the epci contractor who will be coming on board who will take that grand vestigation information into a detailed design for which the deliverable deliver the relevance of this detailed design into a construction project is then the responsibility of that contractor. So it is not until that point, we are able to fully determine

1:07:22

to do that we can shrink down the the wider order limits to where we actually seeking to construct the alignment. Okay. Thing that further emphasises the need for that article that I discussed earlier, but I'll leave it there. Thank you.

1:07:37

Thank you, Mr. Allen. I got a few further questions on that.

1:07:43

On the on the works plans, you actually show dotted lines where the HD b pits could actually move into PSP the range in which they can be moved, return. So what you're saying is,

1:08:00

that's not correct, they can actually move anywhere. I just wonder what the purpose of those dotted lines were Richard Tanner it on behalf of the applicant. Maybe we can get them on screen so we can clarify them? Yes, that'd be quite useful. The dotted lines, they're labelled limits of deviation. And within these limits of deviation, the applicant can cite its trenchless crossing compound and that trestle trenches crossing compound is where the drill rig the HDD rake or what is also referred to as the entry pit will be constructed. There is also an alternative

1:08:37

trenchless crossing compound locations for many of these trenchless crossings. And we are we need to constrain ourselves within the limit of deviation because that formed the basis of the environmental assessment, specifically in relation to noise during the operation of that crossing, transfers crossing compound. But doesn't that then mean that the line of HCD is fixed by those limits of deviation,

1:09:05

which are tolerated on behalf of the applicant? That's not correct, because the

1:09:12

the exit pit is not constrained by those limits of deviation, because there is no activity comparable to the entry pit that would require us to be assessed as part of the environmental assessment. For example, with relation to noise and if we've got more detailed questions on the environmental assessment, I would hand over to my colleague but but just practically, with with the new using

1:09:41

doesn't he? Isn't there restricted angles in which the HCD could emanate from the pit. So if you you, Richard hundreds on behalf of the applicant, it's correct that in practice,

1:09:53

there are limits in terms of which angles we would construct the trenchless crossing and we would seek to code

1:10:00

You design the crossing, to cross edit orthogonal angles underneath any sort of gas pipeline or the

1:10:08

the terrain crossing at Skellington hill that we've seen.

1:10:13

So that's that's something that will come out in detail design.

1:10:17

However, also, we must consider that the trenchless crossing, there are other aspects controlling this, specifically around the construction method that we will be applying. And I think here you can see, so we've got the purple dashed line, that's the limits of deviation,

1:10:35

within which we can cite the HDD entry and only the entry pit, the exit pit of the HD is not constrained by that. And we have the blue and the green squares which give an idea of what the size or the space requirements for those trenches, crossings, compounds is, and they can move within those purple dashed lines, and have to emphasise. So this is our base case, in terms of what we would expect that trenchless crossing to look like. However, we must make sure that we have the ability should the ground investigation revealed that let's say the Eastern or the northwestern route, there has problems from a geotechnical type, then for example, they these could be false or

1:11:24

sort of weaker rock that is unfavourable to the drilling rig, I can understand the need for flexibility. I'm just wondering is that given the limits of deviation,

1:11:36

there's a limited path for the he dd

1:11:40

to go. And if you if you look at the extents of that, like that would give you an area that's less than the area that you actually shown the acquired rights over the blue area.

1:11:53

So for if I'm, if I may respond to that last time. So let's taking the example if we were to construct the trenches crossing with an HDD entry pit location at the base of Wellington Hill, which is in the northern corner displayed here on the plans, in the unlikely case that the favourable ground conditions would identify that the crossing should be undertaken in between the two arms, and then that would be the design that would be adopted by the applicant, and that would be consistent with our application put forward. Okay, thank you very likely request. And note just explaining that, and why, given the limits of deviation, you can't refine that an area down the smaller area.

1:12:46

Happily, thank you. Okay, thank you. The other question I had was that unplanned 20,

1:12:54

you've got the main blue area, there's a section out to the West is attached to it.

1:13:02

And then my first thoughts on that one was area additional area required for stringing.

1:13:11

But it's not labelled as such. So could you please explain the need for that, that block of area to the west of the main block? Can we just get that on screen? So what is the location? It's

1:13:25

sorry, sheet 19.

1:13:28

The one we had originally up on the screen.

1:13:32

So it's just a lot of the onshore nunneries and the land plans. Yeah.

1:13:41

Okay, thank you see, that is referring to the bit on the western side there.

1:13:49

And if we

1:13:53

look at the Indicative areas

1:13:57

that were shown, for example, if we were going to undertake the northwestern alignment,

1:14:03

noting the conversation we've just had around this, then additional space would be required to look at installation installation of ducts into that alignment depending on whether the construction would be undertaken from with the HTV rig at the at the foot of the hill or from the top. So whether you do a forward reading or a backward reading reaming and the duct installation can be undertaken different ways. But ultimately, there's space required for that. And

1:14:35

however,

1:14:38

I would like to confirm that to you in writing if yes, it's just that

1:14:43

we're areas like that appear.



1:14:47

Going through it usually appears when it's associated with stringing and it's actually marked as such in the works plans, that that area isn't

1:14:58

so if you please

1:15:00

clarify while they areas required for police. Happily, thank you, and then more of a.

1:15:09

But if the security state was minded to grant this order,

1:15:13

how long before landowners would would know exactly how much land is required?

1:15:25

So Richard Tanner written on behalf of the applicant,

1:15:29

just giving a broad outline on how following the granting, if it were to happen of consent of this project, we would be seeking to undertake the ground investigation in the course of 2025. And throughout that, then we would progress our engineering design forward. So in the course of that, we would be able to give more clarity, the ultimate clarity of what is the adopted construction design would be, as I referred to earlier, be provided by the principal contractor who will be responsible for delivering the onshore cable reconstruction. So roughly from now, we're talking about a year, six months.

1:16:12

So, the the ground investigation works and site investigation works are likely to be carried out in

1:16:20

2025 to 26. And we are likely to put in place the construction drafters to Construction Method Statements. And further to that, however, we will informally be able to give the landowners information as those results come through earlier than that stage. So it will be an iterative process, not we won't just turn up with a construction method statement on the day. I think it's also worth pointing out that even though the DCO limits are relatively wide in this location, the actual fenced area will be restricted to the compound areas and the whole roads, not the widths of the of the the trenches crossing that's required.

1:17:05

But yes, and as we're seeking to get further information back to Mr. Kittel relating to that overall Land, land matter now, the process will be iterative, but yeah, the the crucial element is the site investigation work in this particular cases, especially in the site investigation work.

1:17:25

Can I just make one final point regenerator on behalf of the applicant and maybe sort of an additional point that may be useful to understand the context here in terms of the design process. Another part that's quite important to consider in these trenchless crossings is the cable spacing that is required to be implemented there because that will be different from the trenched installation. So, what is required to really understand here is an ultimate electrical design of the entire project and then also to get a good understanding of the thermal properties across the trenchless crossings specifically as we are will be burying the cable at greater depths therefore, the ability to do dissipate heat in that crossing has defined the requirement for for the cable rating and the cable specification as such and there's an iterative approach there to look at the the the overall market for such cables and installation methods and additional costs. So, that all relates back to to one or the other and

1:18:29

ultimately we need to a design the optimal crossing that minimises any impact on to the environment and but also we need to look at the cost aspect there and providing a cost efficient construction and installation here. Thank you. Okay, thank you. Mr. Kissel was anything you wanted to briefly go back on? These? Are you just Well, I'm fine. Okay. Okay. Thank you, Mr. Kittel. Okay, moving on, then Mr. Goring and Miss hadden. So thank you very much Miss Hutton for the Western estate.

1:19:09

So roughly 10% of the cables length passes through the Western estates and it's worksheets, sheets 2223 24 and 25 of the onshore work plans. I don't think we need to bring them up. Okay, sorry.

1:19:24

Sorry. Sorry, I should have asked you. That's fine. I might, I might ask for a plan to be referred to in a minute. So I addressed you briefly on the extent of land take on Friday. I'm not going to repeat those points. I've got two particular sets of submissions. The first relates to particular issues regarding minerals and alternatives. And the second topic is the engagement or lack thereof from the applicant. So if I can start please with the first topic.

1:19:54

First, a few short points on the legal position and so don't worry, no complicated legal arguments. I

1:20:00

As you're wanting earlier,

1:20:02

so, you know that the test for compulsory acquisition is a compelling case in the public interest and the short point is it is different from section 104 of the Planning Act. So, you may find that the 104 test is met, but actually the one to two compelling case in the public interest is not met, you may find that the existence of a less harmful alternative is insufficient to find a breach of section 104 or non compliance with honour for but you may find that a less harmful alternative is sufficient to demonstrate no compelling case in the public interest. And so that that was established in the the rookery South challenge and I'll provide you with that judgement. Thank you.

1:20:49

So the second sort of contextual point is that the applicant was demonstrate that it is acquiring no more land than is reasonably required for the person's development. And that's the compulsory acquisition guidance. And so, the short points I draw from those two contextual points are that if there are materially less harmful alternatives available to the applicant, there will be no compelling case in the public interest. And then second, if there are alternatives available, which involve less extensive and less harmful impacts upon a person's land interest, then again, there will be no compelling case in the public interest. And so, those submissions are underscored particularly in the context of the Western estate, by minerals policy, and policy. So en one, paragraph five point 11 point 19 makes clear the applicant should safeguard any mineral resources on the proposed site as far as possible, taking into account the long term potential of the land use after any future decommissioning has taken place.

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Again, the obvious point from that is if there are alternatives, which either avoid sterilisation altogether, or sterilise less mineral than the proposed scheme, then the applicant will not have safeguarded minerals as far as possible. And so there's a similar point that one can draw from paragraph five point 11 point 28, which is where a proposed development has an impact upon a mineral safeguarding area, the sector state should ensure that appropriate mitigation measures have been put in place. So again,

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again, if there are less harmful alternatives, there will not have been

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sufficient mitigation measures or appropriate mitigation measures put in place.

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So I'll turn to the minerals which are present on the western estate. And it might be helpful if I could have document three rep 3144. On the screen if someone could prepare that.

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The route the proposed route crosses a mineral safeguarding area in the vicinity of the Western estates. Key point is that it is not only the mineral safeguarding area where minerals are present, there are unknown minerals and to further areas. First is the wet pools compound site, the proposed workforce compound site where tarmac records showed there to be 400,000 tonnes of sand. And there's a further half million tonnes of sand on a separate area west of the a 283. So so what you see on the plan now on the screen, is you see the mineral safeguarding area, it doesn't include the two additional areas I've just spoken about. And we are going to be putting in a plan which shows you the additional areas and gives you the figures which we say would be sterilised the West Sussex County Council submission, which is rep 3072. Paragraph 275 makes the point that soft sand is a scarce and heavily constrained material and that there are limited reserves available.

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And one of the other points made by the county council, which we very much agree is that it is not just the sterilisation of the area of the cable that needs to be considered, but also the potential for severance around the cable.

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Now the applicant claims in chapter 24 of the environmental statement, which is a pp 065. So that's the ground conditions chapter that the corridor will interact with approximately 8.2 hectares of land. And it essentially discounts this as being less than naught point 1% of the total mineral safeguarding area, and it calculates it, it says as 1.16 0 million cubic metres of sand. So that's the app

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applicants estimate.

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That estimate is not supported by any justification. There are no plans, no investigations,

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and not even really a breakdown of the calculation. And so the applicant, we would request, we would request that the applicant provides there is through you, the XA. But So in any event, we say that that figure has been grossly underestimated. One because it hasn't taken into account the additional areas of mineral which are known to exist, but to it, the cable will sterilise a much greater area than simply the 20 metre easement or the 14 metre construction corridor. And so we will be presenting at deadline for the detail behind that from a minerals experts. And so you will note that the applicant is not committing to prior extraction in order to mitigate its impact and that's one

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methodology, which could be used. It's one that's been asked for by the county council, but we say no good reason has been given for that.

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But so whatever the estimate whether it's 1 million tonnes or many more million tonnes, the point is that en one and actually local policy policy m nine requires the applicant to safeguard minerals as far as possible.

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This despite this, nowhere does the alternatives chapter of the IES which is ABP 104 Consider mineral safeguarding as a material factor in the assessment of alternatives. That's clearly contrary to the policy position.

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The fact is there are alternative routes, which either would enable the applicant to avoid the mineral resource altogether, or to have much less of the resource sterilised. And so the applicant has failed to give adequate reasons why those cannot be pursued. So briefly, the in terms of avoiding these

sterilisation altogether, there's at least one major alternative that would do that. And so I think it's on the next page of this document on the screen.

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Yeah, yes, it is. So that's the the an alternative which would go to Linfield, which would wholly avoid the mineral resource with an onshore cable of six kilometres versus 35 kilometres. And you'll notice it doesn't cross the National Park and I know you've heard representations of the National Park Authority on the particular harm of this scheme. So the applicant has given reasons for dismissing this. And the alternatives chapter of the EIS, they're found at table three, dash four on page 37. And what that says, it says requires crossing of SDN P prohibitive additional costs of significantly longer marine tape cable. Other issues include shipping stateless, and ecological constraints, including the Pevensie levels triple Si.

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So those reasons are demonstrably

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lacking in basis. The first point is that the alternative route does not cross the South Downs National Park. So that cannot be a reason to discount it's factually incorrect. On cost, the applicant points to the cost of the longer cable Well, it hasn't factored in the savings from the much shorter land cable. In any event, the figure of 300 million, which it gives for a longer cable is not justified. And further and I know you've heard submissions from the the National Park Authority and this simply stating a price doesn't tell you anything about viability.

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And so I won't go into more detail here, we'll put some more detail in writing.

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The applicant as Drew said there are steep cliffs when in fact there aren't steep cliffs in the area where the cable will connect. And although there would be a very small sliver of the Pevensie levels, which would have to be crossed in the area where the connection would be found.

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That is currently used as a golf course. And of course the applicant is using horizontal direct drilling.

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And in any event, so there's no reason why that couldn't simply be avoided through the horizontal direct drilling.

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Turning sir to the more localised alternatives which wouldn't avoid sterilisation but they would minimise it and if I could go back one page please.

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Will see one of these here.

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What you will notice from the proposed routes, which is the one to the north, is it's difficult

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To conceive of a route that would sterilise more mineral, because it's cutting from west to east, there are a number of alternatives which would

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take a much shorter route from north to south or south to north have one looks at it.

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And clearly sterilised much less of the resource.

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So you also had before you and I weren't asked to be brought up fields, showing vines on the the Western State or fields that are suitable for vines, and we've made representations about the particular harm, which cable will cause to them. And what I'd simply note here is that the alternatives being proposed by the Western states are both beneficial in terms of sterilisation and also in terms of much more minimal impact on fields that are suitable for for growing grapes.

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So the blue roots is the one that was proposed originally by Western parish council, and that runs to the south of Washington. And it would be separate from the gas pipeline, but broadly follow its roots. And so one of the reasons that the the applicant has given for dismissing this route is the gas pipeline. However, when one looks at their own documents, one sees that cannot be a valid reason for discounting this. The first point is that chapter 27 of the ES major accidents of disasters and disasters aipp 068 makes clear that the applicant is proposing works in close proximity to gas mains.

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The paragraph 27 10.06 states

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states that there are gas mains in close proximity or that will need to be crossed, and that appropriate safe methods of work will be agreed with the pipeline operator.

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And then, of course, there's the draft DCO itself, which, at part five of shedule 10 contains protective provisions for southern gas networks, where development is within 15 metres. So of course, if the if the roots were outside of 15 millimetres, say, from where it crossed the gas main, there would be no issue. And the point is, is that the gas men has already sterilised the mineral resource in that area. So following it, albeit at a distance of 15 metres is obviously a sensible thing to do.

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Another reason the applicant is given for not choosing this route is in the southwest corner of that plan, you'll see there's a short area of ancient woodland, it's about 15 metre stretch of ancient woodland, that the route would have to pass. But of course, there's no reason why the applicant use horizontal direct drilling, it's proposing that under Korkut would also within the Western estate.

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And then there were claims that this route would be difficult to construct, particularly gaining access from the a 24. But sir, there's a major slip road from the a 24, in the southwest corner of that plan, exactly in the area of the alternative. And that slip road has been used to for the chalk quarry, which is the area shaded in red in the southwest. So it's already capable of hosting large construction traffic, there's no reason why it could not be could not do so again. And so we're going to put a plan before you there, of course, being a linear scheme, there are many ways to to do this. And so that deadline for we'll put a plan before you which was in fact avoid the ancient woodland. And, and deal with the access point, even if it is an issue which the applicant says it is.

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So there's an even more minor route which you have before you which you can find on page 22 of rep 3142. And so what that does is it follows the southern edge of the A 283.

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Much more closely now the 8283 has already sterilised some of the mineral. So again, it would make sense to follow the road

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and therefore mineralogy minimise the impact of the cable

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that was discounted by the applicant due to proximity to windmill quarry.

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Now, again, sir, that can't be a good reason for for discounting it because the proposed route already hugs the landfill site within 50 metres of it. And so you'll see it chapter 24 of the ES a PPS 065. construction activities located on or adjacent to landfills have been scoped out of the ES on the basis that they don't

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lead to significant effects.

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So,

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so they can't that again cannot be a reason to reject that route.

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The appellant the the applicant has made claims about the viability of removing sand to the south of the A 283.

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PAGE 22 rep 3142 swear that comment is reported. And so no evidence for that assertion. The western state owns the land on both sides of the road. There's no reason why it can't facilitate access to the south, just as rock climbing common quarry has been operated to the north.

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So sir, as I say, we're going to put forward additional material to you on that. But what we would say is that this is an issue which hasn't mineral sterilisation hasn't been taken a toll seriously by the applicant, you need to be satisfied that minerals have been safeguarded, as far as possible. And we say, as I said, difficult to conceive a route sterilises more mineral in this area.

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So for then just 10 on to a few points on engagement. And I know that this is something that a number of

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participants will be representing tea on today.

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So the guidance on compulsory acquisition at paragraph 25 makes clear that as a general rule, or authority to inquire acquire land, compulsory compulsorily should be sought as part of an order granted development if attempts to acquire by agreement fail.

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And so that guidance imports, the CPOE and critical downs guidance within it a paragraph 45. And so that makes absolutely clear that reasonable steps need to be taken, and that compulsory purchase is a last resort to secure the assembly of land. And so you'll know that there have been a high profile instances of where CPO applications have been turned down on the basis of a lack of engagement. And so we'll give you the references to those two recent examples.

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So the first point in terms of how the lack of engagement has been felt by the Western estate is that I shouldn't be here today. The major reason why I have been instructors is the level of frustration that the Western State has felt with the unreasonable behaviour of the applicant, and a refusal to enter into serious negotiations which have any real prospect of reaching an agreed settlement. And so our written representations go into some detail. And I won't repeat all of it, but may I just give a few headline points.

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From the beginning, the Western State has sought to engage with the applicant and has been willing to discuss the route and agree terms and so we can produce emails from 2021 when this was first set out by the estate.

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And whilst the applicant may have sent some emails and conducted the on site visit and meeting, there has been no real engagement. And by that I mean engagement which has any prospect of arriving at a negotiated settlement. And that's a story which has gone on for more than three years.

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For example, in 2021, the applicant came on to the estates in land without any written or verbal agreement to conduct surveys that had significant ramifications for some of the farm tenants and their relationship with the landowner.

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The applicant opened negotiations by seeking rights over the entirety of the land title, so one and a half 1000 acres, and it was only in November 2023, that the applicant agreed to the rights being limited to the DCO boundary. So so that was after the DCO application was submitted.

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So any heads of terms prior to submission, could not have been signed up to because they were ostensibly and obviously unreasonable.

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So in any event, during that time, the group of agents representing 40 of the landowners provided general comments on the heads of terms. The applicants response to that in May 2023, was extraordinarily brief and dismissive. It didn't invite any further engagement or a meeting to progress discussions. The applicant even rejected an offer from the CLA to facilitate a meeting between the agents group and progress discussions on the heads of terms.

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So even as matters progressed, heads of times continue to lack key details such as construction and operational accesses. And you've heard that already from others. I'm sure you'll hear it from many more. For example, it was only in February this year that the applicant provided heads of terms for the construction compounds so that's the wet pools compound.

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So as

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The heads of times continued post application, the applicant is still asking well, in fact, it was only this week that the applicant

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reduced its requests it was originally asking for 40 metre right to access land or construction and maintenance is only this week that it's agreed to reduce that down to the 20 metres.

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We've had I've explained the alternatives, we've had no real engagement on why those alternatives can't be pursued safer summary assertions.

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But, so, I think possibly the most shocking thing on the minerals is that you are being told one thing and we are being told another. So, sir, the code of construct the cicp table 4.9 of that document rep 3025 contains the following commitment construction strategies will be implemented that will seek to maximise the reuse of excavated clean materials from the onshore cable construction corridor where practicable or feasible prior to the skip stage of construction and minerals protection plan will be developed with which outlines were excavated non waste materials will be reused in line with the clear guidance. And so that point is then reiterated in the ground conditions chapter of the IES at page 87.

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So so the applicant is telling you as a material factor and favourite that scheme that it will reuse the minerals.

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So in response to suggestions by the Western estate, that it should be compensated for that mineral, the applicant has stated to us. And contrary to the terms of its cicp and its own yes, that it will not extract and reuse land from the for use in construction of the project, because it doesn't have the necessary consents and permits. And so we can provide you with that email, if necessary. So So you have a situation where you're being told one thing we're being told another.

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And then final point, sir, putting all of that aside, and all of the

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frustrating lack of information, etc.

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Ultimately, the applicant is refusing to offer fair compensation for the impact on the western estate. And so the three years which the Western State has spent considerable time and effort, and obviously money trying to negotiate sensibly, is frankly pointless, because unless and until the applicant approaches this seriously, there simply isn't scope for an agreement. So we say that compulsory acquisition powers are not being sought as a last resort. There's been no real attempt to acquire the land by agreement. And so so we would invite you to find that due to the clear breach of the guidance. There is no compelling case in the public interest or compulsory acquisition powers to be confirmed. Thank you. Thank you, Miss Hatton. I think before we go to the applicant to respond to that, we'll take our sheduled break now. Until 1135. So we will break there thank you