

AUDIO_RAMPION2_CAH1_CONTIUNED_SESSION3_21052024

Tue, May 21, 2024 1:15PM • 1:22:30

00:05

Okay, it's now 1135 So this hearing is now resumed is the recording running?

00:13

Thank you.

00:15

Okay. Before the break we heard from Miss hadn't

00:19

asked ask the applicant to respond to the points that Miss hadn't raised.

00:26

There Michelle moss for the applicant

00:30

a number of preliminary points which we the applicant will address in the admissions once the London terrace deadline for submissions have been put forward. So we note that a number of these matters were effectively reserved for those that we haven't yet Dean.

00:46

That briefly reminder on the test in the context of compulsory acquisition for the consideration alternatives is in paragraph eight of the compulsory acquisition guidance regarding demonstrating to the satisfaction of the Secretary of State that all reasonable alternatives to compulsory acquisition, including modifications to the scheme have been explored,

01:10

not tests regarding

01:14

the avoiding harm the least harmful and and other positions which the land interests admissions went into. And secondly, whilst on the guidance. In terms of paragraph 25. I'd also just point out the second sentence of paragraph 25.

01:33

Regarding the position, particularly for long linear projects such as these where it is very much recognised that it is appropriate to include compulsory acquisition powers, where it's not always practicable to acquire land by agreement. That said, Sir, on those two points, the applicant does wish to address the number of the matters which have been raised. Regarding the mineral safeguarding
However,

02:02

my understanding is that this point has been examined with West Sussex County Council and it's an issue specific hearing last week. Therefore, whilst the applicant could call on its expert, Mr. Marlboro who's online to deal with the safeguarding matters and how that's been examined in policy terms,

02:22

at the discretion of the acquiring of the examining authority as to whether you would wish to go back over that at this hearing, also whether you would prefer to focus on the compulsory acquisition and impact in relation to the affected party, in which case, I would remind

02:43

the the examiner authority that whilst there is a policy for safeguarding minerals here, there's no policy allocation per for the extraction of the sand, nor is there any planning application, nor are there any clear proposals that any of the land within the order land is proposed to be worked in that way.

03:05

So just pausing there as to whether you'd wish to hear further regarding the policy matters or whether it's satisfied with the how that was examined last week.

03:15

Yes, I don't think we will go into policy matters and concern. Thank you. So

03:21

with regards to alternatives, a number of points were raised first regarding a wholly alternative grid connection at Linfield. Again, that that is principally

03:37

has been has been addressed by the applicant in in in another topic matters. However, Mr. Slow from Palm ws P on the applicant can give a very short summary as to why that reason was rejected by that alternative was rejected.

03:53

If that would have said yes, please.

04:01

ANDY So on behalf of the applicant with regards to the NEM field option. This was really rolled out early on on the basis of previous feasibility studies by rampion. One including the crossing of the

Pevensey levels, triple si in terms of the plan shown on the screen. I believe that was a document produced by Western estate themselves with regards to

04:26

that potential cable route and the works would also go close to the dungeon SB SP EA. These constraints can be seen in figure one of the applicants response to action point three from issue specific issue specific hearing one on Foley and Dungeon s.

04:49

That's rep one. Oh 19 alongside the excuse me,

04:56

alongside the inshore traffic zone for which they are

05:00

provided further information on this constraint in response to written question A I 1.2.

05:09

And further and Nympsfield was also not a site put forward by the national grid connection infrastructure options notice process that was run in parallel to determine the grid connection and described in the alternatives chapter and which ultimately led to the identification of the bodily National Grid substation.

05:32

Thank you. Okay, thank you.

05:36

Make one more point.

05:38

Richard haemorrhage on behalf of the applicant, I would just like expand to expand on the response given by my colleague there because the Western estate referenced the cable route length offshore and onshore and compare this between our proposal and a potential option with an infield. And I think it is very important to understand here that whilst that might not be immediately obvious, but in terms of cost aspects from offshore cable installation to onshore crepe installation, there is a significant cost difference in the Espelette installation, because you have to account for all of the different environments that you are crossing in the offshore environment. And, if required, we're happy to provide further detail into the cost difference.

06:26

Offshore versus onshore cable installation. And we don't agree with the point that there would have been substantial savings in comparison between these two options just looking at these cable installation routes offshore and onshore Thank you.

06:42

Okay, thank you.

06:44

Stefan, would you like to respond to any briefly

06:48

so, very briefly, and we can respond further in writing if necessary, so on the compulsory acquisition guidance and alternatives, so that that paragraph is not exhaustive, you have to be satisfied, there is a compelling case in the public interest and therefore, it is open to you to find that there are less harmful alternatives. And that is a material consideration in your your Secretary of State's decision.

07:14

It was said that there was no planning application or allocation for the minerals, which would be sterilised as a result of scheme. That's correct. But none of the policy that we're dealing with whether en one or local policy requires there to be a planning application or allocation of the minerals. The question is, are the minerals there? Yes. Would they be sterilised? Yes.

07:37

The on Lynfield It was said that it was ruled out early on by rampion one, and one of the reasons given was close to dungeon SSPA. Well, of course, being close to the NSPA is not necessarily a problem in and of itself. The question is, does it affect the integrity of the European site? And so we would say that simply being close to European site is not sufficient to rule out an option

08:03

you were referred to the National Grid Infrastructure notice process so I don't believe the report from that as before the examination we would like to see it please because I noticed that we weren't told it was ruled out by National Grid and lay that apparently wasn't within

08:21

the options put forward so so I think that would be a clearly a highly relevant documents for you to see. And then finally, certain cable lengths. It wasn't my suggestion that it would be cheaper to go to an infield, it was only that any calculation of cost clearly has to take into account the entirety of each route both offshore and onshore. So it'd be inappropriate to simply look at a longer offshore cable and claim there would be 300 million additional costs without taking into account the shorter onshore cable.

08:54

Okay, thank you Miss satin. So I got four actions basically, from that.

09:04

Briefly if you could provide a breakdown of the minerals calculation in app dash 065

09:13

provided no note on alternative cable routing with respect to mineral several serialisation.

09:24

Third one then is to provide a note on rent on relative onshore and offshore costs. And the fourth one is to provide the communication or National Grid ruling out Linfield as a connection

09:43

those or table take those away. Thank you. Okay, thank you.

09:48

Okay, we're moving on now to Mr. Killam.

10:05

Good morning. My name is Simon Killam I'm a tenant farmer at Gasquet farm part of the Western estate, my tenancies and FBT farm business tenancy. Today I have not received heads of terms or any other correspondence as to when they are likely to arrive or their content. As a tenant farmer, I have rights, which need to be discussed and legally protected. If this is not achieved, I could end up in a legal fight with my landlord, which is wholly incorrect and should not be allowed to happen. rampion negotiated a licence with myself for the purposes of surveys. They know full well I am a tenant at Gasquet farm, and should we do with me directly with regards to my heads of terms? This has never been discussed in the four years of supposed consultation rampion who failed to protect me as a tenant farmer. I'm being led down a path I do not want to go down the ramp you need to resolve this matter otherwise, how can anything progress? Thank you.

11:07

Thank you is to kill him. Can you please respond?

11:12

Sir, I'd like to ask Miss tentative Carter Jonas to reply to that.

11:18

Lucy turbot on behalf of the applicant. The applicant has consulted with Mr. Killam via the statutory process and understands that he is a tenant at the Western estate. We have had site meetings with him in September 21 to discuss site specific issues and have taken onboard.

11:40

The applicant acknowledges there will be temporary possession of some of the land that Mr. Killam currently farms. And the approach has been to agree key terms with the landowner firstly, engaging with them about the cable route, whilst also consulting with the tenants and considering their views. It is the landowner who has the legal capacity to grant the rights to the project. And the applicant requires further information on the tenancy structure to get a full idea of what Mr. Cohen's position is.

12:14

We imagine moving discussions forward using tenant consent documents, which has already been discussed with the estate. I drafted these documents has been provided to them. And we recently received comments back in May 24.

12:30

I would like to comment that reasonable agents fees and appropriate solicitors fees will be paid in connection with considering the request for 10 consent.

12:41

Equally, the applicant is willing to meet with Mr. Killam on the project side of things or to meet with him and the Western estate. In fact, a meeting was offered in May 23, which he decided not to attend. However, we would like to move forwards with the tenant consent documents as part of the negotiations. Thank you. Okay, thank you just a point of clarification. So until the recent correspondence with Mr. Killam is incorrect, usually you've only had one meeting with him back in 2021.

13:14

To confirm listen to him, but on behalf of the applicant to confirm the meetings we've had with Mr. Killam. We've had one meeting where he attended a neighbouring landowners meeting in August 21. One on site in September 21. He attended a wider estate meeting at the Western meeting point in April 22. A consultation event in November 22. And a further meeting was authored in May 23, where we met with a lot of the estate tenants where Mr. Killam did not attend. Thank you.

13:52

Okay, thank you. Mr. Kellam, would you would like to come back on that briefly.

14:01

The meetings never really, you'd never get any dialogue which actually means anything. So you cannot actually get them to agree. Say what they're going to do. So we haven't really had any meaningful dialogue.

14:18

Okay, thank you Mr. Gillam.

14:21

Okay

14:26

Okay, moving on now to Mr. Dixon. So without further delay, Mr. Evans,

14:33

would you like any plans? Under the years we have shoe 25 of the land plans please we have 25 of the land plans please put on the screen.

14:59

Thank you

15:00

I'm Simon mole of Montague Evans. On behalf of Mr. Dixon.

15:05

Just want to start by saying that will be detailed submissions by counsel submitted on behalf of Mr. Dixon by the deadline for submission.

15:13

I will just summarise the key points of concern that we've made through our representations and try not to replicate what's been said by others.

15:22

Mr. Dixon is the freeholder of land, known as college wood farm, and is an interested party for the purposes of the DCO. The relevant plots are shown on the sheet 2417 25 to 25 325, four and 25. Five broadly a linear stretch of land that settlers college would farm into to Mr. Dixon objects to the acquisition of rights, the imposition of restrictive covenants over his land. The acquisition of these rights and the imposition of these covenants by deploying an open cut trench cross farm through the plots, which sadly results in the extinguishment and the destruction of Mr. Dixon's livelihood as a single farmer of over 70 years old. The experience so far has had a devastating impact on his life and continues to do so.

16:11

The next point I want to raise as the applicant is failure to consider alternatives.

16:16

In the applicant statement of reason, they allege that as a result of consultation process, cable route amendments and construction related change requests have been subject to review by the applicants team. During the evolution of scheme design and accommodated, were justified. See paragraph six point 2.3 of the statement of reasons. This is not true in this case, in the case of others, and alternatives have only really been considered in the last few weeks of engagement with the applicant and their advisors. The applicant has ignored and failed to engage in meaningful consultation in respect to the alternative routes through college wood farm, which will first meet President which were first presented sorry to the applicant in spring 2022. Being the installation of HDD construction method through the farm as an alternative, or the relocation of the open trench cable to the northern point of the sill boundary of the land. Both of those were presented in spring 2022.

17:18

The alternatives would significantly reduce the impact on Mr. Dixon's livelihood, thereby negating the need to provide crossing points, which would also avoid the severing of his farmable area. The severance of the land will extinguished his livelihood and his farming practice, and amounts to the concealment of the use of the land for farming in a manner that reflects the circumstances the particular

circumstances of Mr. Dixon being a farmer of over 70 years old and age, and have restricted the ability. Also, the application allows the applicant to be on site for possibly or search for the powers to to hang over the land for possibly up to 10 years, being the notices can be served up to seven years after the DCM was made, and with three year construction programme,

18:08

to sofar.

18:10

evidence submitted to show that the applicant has failed to meaningfully consult. There is an omission to include Mr. Dixon's land in the targeted onshore cable route consultation, which is carried out in October and November 2020 to the western area consultation materials completely admit to colleague which college would farm This is despite the alternatives mentioned previously being made. Being the applicant being fully aware of these alternatives in advance for that consultation.

18:42

The decision for the DCO cable corridor affecting college wood farm was communicated after the completion of the consultation period in spring 2023. Also in a letter dated the 14th of April 2023. The applicant confirmed that a 25 metre standoff from the ancient woodland which is split handle rough fall in consultation with West Sussex County Council and Natural England but actually the order limits themselves are approximately 70 metres away from that natural sorry from the ancient woodland buffer zone.

19:18

Moving on to the failure to negotiate the CPO and using CPR as a last resort, compulsory purchase as a measure of last resort, and the applicant has not seriously considered the alternative means of bringing about the objective of the CPO in respect of the land.

19:35

The applicant statement of reason acknowledges ongoing discussions with landowners but at the point of the submission of the DCO head to terms have only been latterly issued in March 2024 To Mr. Dixon, which is obviously at some time after the point of submission.

19:51

The statement of reasons confirms at the date, the applicant, the applicant was only in negotiation with 25 Out of the 173 landowners 40

20:00

1% And at that point had any agreed terms with three landowners 1.7% And no attempt to be made to mainly meaningfully negotiate with Mr. Dixon, before making of the DCA.

20:14

The rights that were issued in the subsequent heads of terms also inconsistent with the rights being sought in the DCO.

20:23

Moving on to lack of funds,

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the applicant lacks funds and cannot guarantee funding from its shareholders for the project. As it is a special purpose vehicle which does not have assets of its own. There is a risk the applicant cannot fund the project and would not be able to offer compensation to affected parties. The applicant has confirmed at the deadline to submissions that they need to win a contract for difference. They need to overcome supply chain supply chain challenges. They need to manage the scale of the project with ongoing inflation challenges. And perhaps crucially, the project is reliant on three national grid infrastructure upgrade projects, one of which is known as the Great grid upgrade, which itself is not funded and not in any consenting programme or regime.

21:13

Therefore, the rampion project is unfunded and wholly reliant on other projects which are equally themselves unfunded and unprogrammed. just summarise the key points. Mr. Dixon cannot operate crossing points safely due to his age and lack of ability. This point has been continuously made throughout the lack of consultation so far, and that the applicant and we have requested that the Route Corridor be located as close as possible to the northern film boundary to minimise severance and reliance on the crossing points. This can be achieved whilst providing a suitable standoff from the ancient woodland. This route would also pass through a higher part of the land with the DCO corridor which currently passes through a wetter area and does not require the loss of any additional hetero.

22:01

The DCO corridor is some 70 metres from the edge of the ancient woodland buffer, and requires crossing points to be workable. This is despite the continued representations by Mr. Dixon about his inability to work such crossing points. Therefore, this is a clear indication as to how the applicant has ignored the consultation feedback. There is no justification for the DCO corridor with which in his location appears to be 60 to 70 metres, but on repeated occasions, we have heard that only 25 metres is required for the permanent easement. Negotiations have only recently commenced in key terms exchanged in March of this year, and there's been a resistance to pay reasonable costs so far.

22:44

Finally, there are inconsistent approaches across the project. For example, one of the requests from Mr. Dixon is that there is a short throw HDD trenchless crossing of his farm this main farm drive and hedge and hedgerows either side. This has been rejected so far by the applicant through key terms and the DCO despite being offered by the applicant themselves and a site visit in April 2022. This contradicts with the consultation material in October 2022 weather as a trenchless crossing Tec 15 Which does provide a short throw HDD crossing of a farm track and woodland belt. The second inconsistency is the limits of deviation and the location of the ancient woodland. In our case, as we seen, the DCO corridor is roughly 70 metres from the edge of the ancient woodland. The applicant has stated that they have a commitment to stand off 25 metres. However, in another location that lower bomb would just to the other side as bit handle lane. The DCO corridor actually abuts the ancient

woodland. So therefore that demonstrates further inconsistencies across the approach taken to landowners. Thank you. Okay, thank you Mr. Manuel.

23:58

Esa did actually visit Mr. Dixon's farm last week, and we did see the alternative line proposed along the edge of the land.

24:10

So I'll just ask the applicant,

24:13

the reason why I was discounted, and also if you could pick up the other points that Mr. Molars made on behalf of Mr. Dixon

24:23

icky Potain on behalf of the applicant, and the applicant is actually considered about five different versions of the cable routing and construction methods. The cable routing to the North was actually first discussed before the October 22 consultation, but at that point Mr. Dixon was requesting the entire HDD of his land by the applicant and the reasons for rejecting not being able to take forward. The cable route northwards were communicated in April

25:00

23 And they comprise mainly, the corridor would be within the 25 metres buffer of the ancient woodland. And they would It would also require the crossing of the additional belt of trees that we saw on site in the distance, it would require the removal of that section of that belt of trees

25:27

in addition to cable routing would be longer. And we are required to deliver an economic and efficient cable

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in the interest of reducing costs for the bill payer ultimately.

25:44

Okay, I just wondered, as Mr. Dixon been informed of the length of time that the trenching will be on his land. So the length of time that he's had to operate these these crossing points.

25:59

So the discussions to date have been largely around the

26:04

the the length of time of the project as a whole. So the the anticipated three year period, we've we've also sought to further the discussions, albeit Mr. Dixon has expressed that he does not want crossing points on the farm, we do actually use crossing points on other projects, we've used them successfully.

For example, on our Sofia project, we've used them in almost every landholding so that farmers can access across the cable route with either agricultural machinery or livestock. So, we did try to further those discussions in the context of the, of the programme. So that

26:47

and it also when concerns were raised about the operation of those crossing points, we we tried to further discussions about employing about funding a spokesperson to assist with with those crossings. And but at the moment we

27:03

we have communicated the general project timeframe of approximately three years for the for the construction of the cable route. And then what will be the time that the crossing points would have to be operated

27:17

wouldn't be for the whole of that three years with it.

27:22

Just trying to get some idea of the scale impact and severance on Mr. Dixon's land. So Richard Tama wrote on behalf of the applicant, specifically, with regards to crossing the axis track to the farm building, this would be undertaken to provide a site internal diversion route, so there wouldn't actually be any actual restriction

27:46

to the access of farm. So the road would be temporarily diverted by a short practical Road, potentially employing matting to to stabilise that appropriately. So in respect of that, that that wouldn't restrict access as such. Secondly, the trenching across the access track would be a matter of weeks in terms of constructing the trench backfilling, having the ducks in place and reinstating the surface, so that it wouldn't be a something that would be taking

28:18

more than a couple of weeks.

28:20

In terms of severing the wider farm, we have put forward the operation of as my colleague mentioned, of crossing points, where agricultural machinery or livestock could be transferred from one side of the cable corridor to the other side. And the operation of these access points with the potential provision of a stock's person to operate these gates as well. So these these efforts have been made, and communicated. Thank you. Yeah, it's just trying to understand, you know, the length of time you'll be on Mr. Dixon's land, and then he, you know, he or a spokesperson would have to operate those closing points.

29:06

So, for an open cut construction of the the length of this, I think we're talking about something like 800 metres here in total, which is the length that was proposed for HDD at the early phases of the engagement.

29:21

We would be looking at a timeframe here within three to six months, at a high at a high level here. Thank you.

29:33

So basically, maximum of six months,

29:37

you'd actually be on the land and that's so awesome points when largely i This is the duration of the construction of the cable trenches the installation of the ducts, there may be an extended period where we may need to operate the whole road. However, this is something that can be faced and

29:58

mitigations can be put

30:00

in place to facilitate that the land use is is as close to undisturbed as possible.

30:09

Okay, perhaps you could provide us with a note on that. So we're clear certainly has an impact on Mr. Dixon's land. Mr. Dixon, would you like to make a point on that?

30:21

The

30:23

relevance of the construction period time, the construction period of time is totally irrelevant, is the amount of time before you switch on electricity and take the fence down, which could be eight years, we've been very misled science three years, because this could take up to eight years, especially if they proposed

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the seven year ability to make the application.

30:51

We could be talking about a 10 year span, and I'll be well over eight years old.

30:57

Yeah, I can understand. In certainly before the work commences. Yeah.

31:04

I was trying to understand is, once work has commenced,

31:08

how long it would last? And how long you'd have to operate those sort of crossing points. Well, until they take the fence away when they turn on the electricity. But they haven't told us that, that the man is misleading us. He hasn't told us that those fences will be there until electricity is turned on. And the land is reinstated. Well, you just think whatever the item is, I expect sorry. So the I didn't expect the land to be reinstated behind the lane of the cable. Yeah, but yeah, but they keep it'll keep the fence will stay there until the literacy switched on. And they weren't reinstate the land until that point. Because I don't know if they've got a problem though. They weren't reinstate my land until the project's finished. Okay. They're not going to ask the applicant then just to clarify that that point.

31:59

Yeah, so what hasn't been communicated is an approximate three year period for the cable, the trenching works, the cable installation, and the commissioning. And exactly when sort of further to the duct installation, and the remedial measures the fencing will be taken down, is yet to be determined, but we've communicated that it probably will be the you know, it may well be up to the commissioning point

32:26

in time, but that is within the three year period that we have communicated to Mr. Dixon

32:34

at this stage?

32:36

Yes, Mr. Johnson.

32:39

As far as the crossing gates,

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I'm not going to risk my life around him, which is what I would be doing using crossing guards. Because as I'll be getting on for eight years old.

32:54

Okay, can I just add that we've extensively dressed why crossing points aren't suitable for mistakes. And because of his age and disability under the Equality Act,

33:04

the applicants choice of language that mistakes and has not chosen to use crossing points was incorrect. It's not really a choice. Mr. Dixon, it's a matter of health and safety. Yeah. Okay. So yeah, I think we have enough written evidence in the examination around that.

33:21

And perhaps we could have a note about that issue of how long land is sort of, in effect, sterilised until fences are taken down and can be reused again,

33:33

is a general note because it has been impacts on the whole corridor.

33:38

Sorry, I know, I know, Tom suppressor, I'd have to make one quick point. So I'm a mole on behalf of Mr. Dixon about the use of stocks, person people. I do think that's a bit of a red herring, because when pressed on a site meeting a few weeks ago about the practicalities is clear. It hasn't been pulled through. I agree. There are multiple instances where crossing points have been implemented very successfully on linear infrastructure projects. But the point continually made is that Mr. Dixon is not not physically able to operate them. The alternative, therefore, it's a stock's person, that the actual use of stocks person just hasn't been thought through, I'm afraid in terms of where that person is located, who employs them, what hours they are available farming, as we know, as a 24/7 business. It just doesn't work, unfortunately. Yeah, thank you, Mr. Mole. No, it was obviously in relation to Mr. Dixon's land. But he's highlighted something that I didn't appreciate, I think, with regard to the whole project, privacy impact on other people's land as well. And just to finish off with Mr. Dixon's presentation, sorry, can we just have written confirmation from the applicant on the next deadline in terms of the length of the construction period in terms of time?

34:54

Yes.

34:56

Yeah, in effect, that's, that's what I've I've just asked if they can provide

35:02

The it'll be out of action until commissioned. She's admitted that what I've said is great. It could be eight years. She just said, Okay, two minutes Commission, which may be 20 to 2032. Okay, thank Thank you, Mr. Hicks, and I will provide a note on that. So we're clear. And just just to wrap up, points that Mr. Mole made, have you any comments on the consultation point? And also the funding issue?

35:34

And with regard to the

35:37

end, the consultation point in terms of the the trenchless crossing that was referred to what or is it just more general consultation? So I think there was concerns that consultation on the on the root

35:54

impact on Mr. Dixon's farm wasn't wasn't actually shown. And that path became less.

36:01

Yeah. So the, as I say, the movement of the cable Northwoods had been discussed on site prior to that October 22. Consultation, and it was only the alternatives along the VT that merited the consultation that were taken forward. And for the reasons that I've that I've just explained to you with regard to the additional tree line crossing those reasons meant that that wasn't taken forward in in that consultation. And in terms of the inconsistencies that Mr. Mill referred to the trenchless crossing further along the route at TCC was TCC 15, on the grittiest land, and there is there a belt of Category A mature trees that would take decades to replace alongside the the dairy access that has multiple movements, date traffic movements daily, in this case, we've got our hedgerow that that would be reinstated fairly quickly by comparison to that belt of category A trees.

37:04

Thank you

37:09

canal gate on behalf of the applicant with regards to the funding we heard from Mandy Dranoff last week on the status of the funding for the project. And an update to the funding statement will be made at deadline for so I don't intend to speak much more on that today. But I guess to reiterate her point that the applicant doesn't anticipate there to be an issue with with the funding of the project. With regards to the grid upgrades, which was a similar point that was made.

37:40

It's worth just noting that the the upgrades that we referred to in our previous submission. One of those is the upgrade required at bolney, which forms part of this application. And the other two are part of a project which is called the Great grid upgrade, which is described as the largest grid overhaul in a generation. And it's a it's a wide ranging project across the UK to wholly upgrade the grid to make it suitable for the projects that are coming forward. And our understanding is that there are about 30 other projects that are reliant on that grid upgrade work that this project is also reliant on. We don't consider it to be a significant risk to the delivery of this project. And as I said, there are there are a number of other projects that are also reliant on that upgrade work. Okay, thank you. Thank you for that.

38:35

Okay.

38:39

Okay, I think we'll move on now. Excuse me, sir, may I add something very quickly on the engagement on behalf of the applicant?

38:47

To move on? I'm sorry.

38:51

That side? Yeah, go ahead. Please. Just wanted to say that we the applicant has met with the land interest and his agent on certain times during off from June 21, up to as recently as April. And we've

also written to the land interest annotations, a number of times, specifically in letters dated the eighth of April 20 215, June 22 and the 15th of March 23, where we have tried to explain the reasoning behind the various

39:27

accommodation works requesting and how we would seek to utilise the crossing points throughout the construction period. Okay, thank you. Thank you for that.

39:37

Okay, so we're moving on now to green properties. I think that's you, Mr. Mole. The answer is me again, I'm afraid.

39:47

You want to plan upon the sweat? Yes, please. I've lost the land plans. I'm afraid.

39:54

Sheep 32 Maybe from memory.

39:58

It's 3333 yet

40:00

Oh yeah, yes please. Yeah. Thank you

40:10

Thank you. Great thank you. Simon Walden wants to be Evans on behalf green properties Kenton Sussex limited.

40:18

Our first son was the owner from from now on. The owner is the freeholder of plots 33 For 3322 3320 330-324-3325 and 3326. The applicant is unnecessarily seeking to acquire new rights imposes stricter covenants, and temporarily use land within the ownership of the owner for the installation of the electricity connection cables protrude between the proposed converter station at open Dean and the National Grid substation at bolney. The proposed acquisition of new rights and imposition of these covenants will permanently affects the enjoyment and the use of the plots and the applicant. Other than carrying out a dormouse survey has not carried out any other surveys at the land in question, and first visited the property some four weeks ago at the owners request. Moving on to the consultation process. The applicants statement of reasons confirms that consultation with affected parties and their feedback were considered in the cable routes decision making process. However, the applicant has completely failed to appropriately consider the alternatives put forward by the owner.

41:31

The applicants proposed DCA route will destroy the owners woodland planting scheme, which was accepted as part of this prestigious green can add the Queen's green canopy programme which was

launched by the Woodland Trust which summit which is very personal and dear to the owners heart. The owner kept a 50 metre strip free of saplings planted for the Qg C programme. For the applicants cable installation. The applicant has not considered this route.

42:01

The owner repeatedly presents alternatives routes that will continue to be ignored by the applicant therefore thereby demonstrating a continued pattern of disregard for consultation. For example, the applicant conducted a targeted onshore cable route consultation in autumn 22 to two looking at areas of different looking at different areas including areas seven eight Cal fold the map providers part of areas seven a consultation shows two potential root corridors affecting the owners land running east from the proposed open DNS substation. Yet the consultation document does not consult on these two options and has not consulted since the applicant did present a third option by way of a single plan dated March 2023, which was deposited in the owners letterbox but without any explanation or background information, and again has subsequently not chosen to consult or provide any further details on this option, which could have had a lesser impact on the owners land.

42:58

The recent kaufhold consultation in June 2023 reveals conflicting information, slide two of the cable Route Corridor moving east from open Dean as per the 2020 through 2022 consultation material. The slide is the sketch at slide three so it shows a single corridor option which matches the DCO submission. It's therefore evident that the applicant had already made a predetermined decision on what chord or to pursue.

43:28

In terms of failure to negotiate the CPA, the applicant has not seriously considered the alternative means of bringing about the objective of the CPA in respect to the owner's land. The statement of reasons states that discussions with landowners for land rights required for the cable route and associated operational access routes have been taking place and there are ongoing discussions with the majority of landowners and where appropriate their agents and advisors. key terms have been issued in the majority of cases where there has been active landowner engagement as to enable heads of terms to be provided. This is clearly untrue, and there is overwhelming case that the applicant has failed to properly comply with the government guidance on compulsory purchase and the crypto downloads. For example, they had to terminate for voluntary agreement have been issued to the owner, certainly not prior to March 2024. At the point of the DCO as confirmed before, I won't get through the numbers as I did first time, but it just showed there was a lack of ability for the applicant to reach agreement with a number of landowners.

44:31

The grounds under which a CDO is needed is because negotiations to acquire land have been unsuccessful the acquiring authority must show that it tours agent has sought to acquire land by agreement by pursuing negotiations with the owner and these have failed and therefore CPO is needed as a measure of last resort.

44:52

In terms of the extent of the audit powers, the CPM must only be confirmed when there was no alternative means to for bringing about the objective

45:00

This is widely accepted as meaning other than the use of CPA powers. And this particular example, the DCO, land plans identify a corridor of 100 metres through the owners land over which it seeks rights. This completely contradicts the applicant who has previously confirmed in writing that they actually require a much narrower corridor. The inclusion of plot 3325, as can be seen on the plan, within the DCA will also completely sever the entirety of the land parcel from his public highway point. And that's not proportionate.

45:34

There have not been meaningful attempts by the applicant to justify CPA by reference to the alternatives which would achieve the same objectives.

45:43

lack of funding I went through that previously, so I won't go through it again. In summary, the DCO limits are unnecessarily wider 100 metres, and that throughout the entirety of the owners landholding,

45:56

the order limit includes areas of trees planted for the QA QC programme, the DCO, and the key terms issued will enable the applicant to sell such trees within the order limits some stress it's within the order limits not defined as the cable permanent easement corridor.

46:13

The applicant has stated that the construction corridor between the opening substation and the end jet bonus substation can be reduced to 30 metres. Construction with an A 50 metre permanent easement with this contradicts the order submitted. The applicant has said it needs 100 metres width to allow for HDD construction. But they have confirmed that that is their intention for the HDD compound to exit in the first field being the first field just to the right of Kent street. So therefore, there's no reason to continue that 100 metre stretch beyond the boundary of that first field.

46:51

As mentioned, the DCR will extinguish the existing access point from chemistry to all of the land. Negotiations have only just commenced and key terms exchanged. The applicant has provided in a letter to green properties dated the ninth of May 2024, to relocate the HTT exit into the second field, which will avoid the tree planting area. However, for key terms have not been updated to reflect this proposal so far. Thank you.

47:17

Okay, thank you, Mr. Mo. Miss Moss, could you please respond.

47:23

So there are a number of points which I'd like members of the applicants team to pick up.

47:29

Firstly, with regards to the widths of the order limits in this location. And related to that, whether the 50 metre strip status, the planting of the saplings for the Queen's canopy

47:45

is sufficient.

47:48

Secondly, the engagement that the applicant has had in consideration to alternative options in relation to this land, both during the consultation stage and ongoing at this stage and the applicants position currently with regards to negotiations on key terms. So so if I can turn first to Mr. Tanner Ruto in terms of the the width of the route, and the ability or otherwise to fit into the 50 metres strip and the Queen canopy planting.

48:26

Thank you, Richard hundreds on behalf of the applicant.

48:30

With regards to the required witness of the audit limits and over the land of green properties.

48:38

I can certainly say that the required witness driven and that's correctly stated principally by the horizontal directional drilling alignment.

48:49

It is correct also to say

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that we're currently in the baseline application have proposed to construct the exit pit in the first field. However, as green properties have just confirmed, and we are suggesting as a

49:06

mitigation measure to avoid the planting area to actually emerge with the extra bit in the second field over principle need for retaining the wider width of 100 metres. A dislocation is driven primarily by actually the substation technical layout. So ultimately, what is required here,

49:31

sorry,

49:33

is relating to the principal function of a substation where the process of electricity conversion takes place from one part of the substation. In this case, the southern part where our export cables arrive

from landfall and then the conversion process takes place over to the other side of the substation to the northern end. So this is where we would arrive at our own transmission grid.

50:00

voltage levels of 400 kilovolts. And the internal site layout will need to

50:08

take into account that we have at the northern point the exit for the for the transmission cables and therefore the the construction of the HDDs. Over Under the road of Ken Street and that substation layout is as you'd expect subject to detailed design subject to the final electrical design of the overall scheme. But it will also depend on ultimately the

50:32

market in terms of equipment availability, and cost optimization of

50:38

opportunities that the applicant needs to pursue in that regard. So, there are a lot of moving parts related to this where exactly we will take and construct the HDD under the road. And that's sort of the key driver of this wider order limit. Additional points that we need to consider here also are related to environmental features along that

51:03

corridor to the east, where we have a number of ponds and vegetation features, but my colleague is much better equipped to speak to that and my final point is in the eastern edge of that corridor, we have to consider existing extra high voltage overhead lines and underground cables power cables are 33 kilovolts and these will need to be considered with suitable standoff distances

51:30

for the construction project,

51:33

and present a something that we need to work on further and provide the sufficient standoff distances to make sure we are applying best practices when it comes to health and safety of the construction.

51:48

Thank you that's appointed from engineering on this

51:55

thickie port Swain on behalf of the applicant, I'm just going to about the alternatives that have been considered at Kent street. So in 2011,

52:08

plans were submitted for Mr. Dixon suggesting routes much further south. And beyond that shown on this plan

52:18

which would connect into an a route to the south only substation, those routes were rejected due to significant engineering challenges with regard to the route south of the substation, and also land uses including impacts on a chicken farm.

52:38

We we then

52:41

had communications with Mr. Dixon who was

52:47

requesting that we utilise a route that we had previously consulted on in connection with winding Lane South substation to the south. And that the route van broadly in line with the in between the two grey squares that are shown on the land plan there to the south. That was given consideration but rejected partially due to impacts on immunity impacts on the nearby property there, which is owned by Mr. Ball and effects on trees and vegetation. And also the engineering challenges again, with regard to

53:23

meeting south of the substation. After that we then as a design review team got together and reviewed about seven different options for trying to

53:36

move the cable route south that away from Queens canopy planting proposals that Mr. Dixon had put forward.

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Even though we'd actually struggled to get

53:49

a clear plan of where that planting was going to be. And then further to that, we came up with a suggestion which was broadly in the middle of the two options that I've described, which was the plan that was left for discussion, and in the citizens letterbox. However, when I then phoned Mr. Dixon to discuss that Mr. Dixon said that was not a route that he would like to progress because it didn't follow exactly the field boundaries that were involved. And the reason we couldn't do that was because of the the tree

54:21

the maintenance of a space in between between the trees and the hedgerows. So

54:29

ultimately, we've only recently been sent the plan of the planted area that's physically been planted, and we subsequently met with Mr. Dixon and Mr. Mole on site to look at that planted area and we've

considered the request to locate the cable route to the south. And because of the reasons I think Mitch is potentially touched on the great crested going to want to Yes, to say that it comes back to the the point about the substation layout in that proposed

55:00

It would have been required to move that 400 and KV alignment into the middle of the substation layout that would have led to a less efficient substation layout, it would have likely led to an increased requirement for substation space, an increase in environmental environmental impact and then potentially very significantly increased cost of construction for the onshore substation.

55:24

So that's the meeting that we had and and now we have the information of the tree planted area. And we've explained why we explained on site one further to the site visit why the southern route wouldn't work.

55:39

But also we've we've offered up an eight a trench just extending the trench just crossing East so that it would exit beyond the planted area. And we've made that offering inviting

55:54

to Mr. Malina. Mr. Dixon, we've not yet heard back that if we do hear back, we are more than happy to build that into the commercial terms moving forward.

56:05

Okay.

56:06

Mr. Mole, would you like to come back briefly?

56:13

And yeah, that's correct. negotiations are ongoing, and we will make a point of replying as soon as possible. Okay, thank you. Any other points or

56:22

Salamone? On behalf of green properties? I think the one point I would want to stress is that

56:28

a plan was presented to two mistakes. If I'm understanding correctly, a plan was presented to Mr. Dixon, I think it was May 2023, showing a route alignment. From what I'm hearing today. It doesn't sound that route alignment was ever deliverable. I'm not obviously, I don't understand the technicalities of the substation construction. But it sounds like that route was not ever deliverable. To kind of raises the question, why would you present a Route corridor that you know, is not deliverable? That's not technical in that matter. So and they've got that wrong? Could I? Could I get the opportunity to clarify that point? Yes, yes. Yeah. So since that point, the applicant has progressed further the ultimate

substation design and also mitigation design around the substation when it comes to mitigation for for flood risk when it comes to mitigation, environmental impact screening, these things that fit into the submission of the design and access statement,

57:21

following that design process,

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that

57:26

changed to that would have not been able to be accommodated irrespectively.

57:32

In that sense, thank you. Okay, thank you. So if you could take an action to update the trenchless crossing plan. If there are changes, those have been changes.

57:45

So Michelle Moss, from the applicant representing the applicant, I think that will depend on whether on what the feedback is from Mr. Maule on behalf of his client as to whether that can actually be secured and whether agreement can be reached

58:01

by again,

58:03

okay.

58:07

room then, we've got Mr. Vishal amis, to listen.

58:15

Now afternoon to Alex dolostone from Winkler showered on behalf of Susie and David Vishal sweet Hill Farm, and would you like a plan, if that would be helpful. So sheet 26 sheet 26.

58:30

This Well, that's been put up on screen, I'll just say that sweet Hill Farm is subject to compulsory acquisition powers under the DCO under Article Five and schedule seven, in relation to about 900 metres of the cable route. So it's roughly 2% of the route that you see there.

58:49

The officials concerns and the proposed powers over suite of arm as set out in their written representations own rep 1163 and their deadline three submission, which is rep 3132. So I don't intend

to repeat those here today. But what I do want to do is pick up the points that the applicant has made the first compulsory acquisition hearing so on Friday, and today,

59:14

I will focus on two main issues. So that is the extent of the law intake. So which links into what the applicant said about whether their conditions under Section 122 of the Planning Act are met. And also the statements that the applicant has made about engagement.

59:32

I'll plan on covering engagement first because that has a bearing on the other issue about whether requirements of section one to two are met.

59:41

So we heard on Friday that the applicant continues to seek to reach voluntary agreement. And Mr. Lister mentioned that there are active and positive discussions with 60% parties. He also mentioned that they are working across the board with interested parties, so presumably 100% them to try and reach agreement

1:00:00

Now the position that the applicant put forward on Friday's hearing, and in its documentation is very different to the reality experienced by my client. We know that on DCS, it is fairly commonplace for the applicant and for interested parties to have different views about what level of engagement is being required and is being undertaken. But in this case, the very wide difference between the perspectives of the applicant and landowners and the number of unresolved objections sets this DCO apart. For what it's worth, I have been dealing with DCS for over a decade. And while we all know that there can be differences of opinion, I've never been in a position where the applicant where the what the applicant is telling you differs so greatly from the experience of my clients.

1:00:45

As to why this is relevant, I think it's worth drawing your attention now to Section 1042 of the Planning Act 2008. Now that says that in deciding the application, the panel must have regard to any other matters, which it thinks are both important and relevant to his decision. And I suggest to the panel that this may be a matter which they will find relevant.

1:01:07

I don't plan on running through all the dates of the correspondence and the tone of the emails, or the others today have done that. But what I can say is that the officials experience is very similar.

1:01:18

What I will do is give an example of what the IRS what the examining authority is being told by the applicant does not reflect the whole picture. And I'll do that by reference to the lance white tracker, which is rep 3011. That's the deadline three submission track change version.

1:01:37

The lands weight tracker lists the engagement that is taking place. So for the officials, the applicant is saying as it is for others around the table, that it has had meetings with officials, it has had site visits, it has sent them emails. Now that is all true. But that itself does not mean that meaningful engagement is taking place.

1:01:58

The tracker also lists the heads of terms as under discussion. And I think it's worth on picking what that means.

1:02:06

This is a little bit long, so bear with me. But what it means precisely is that the applicant has sent a version of the heads of terms and the template easement to the officials via their land agent. The officials land agent in January, asked if I could discuss those applicant and those documents with the applicants solicitors.

1:02:23

The applicants response to that was that if we wish to begin discussions with their lawyers, my clients must first agree the heads of terms with the commercial terms in the form supplied.

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These heads of terms are unsurprisingly on Holmes terms that are heavily stacked in the applicants favour and which and landowner cannot reasonably be expected to accept, not least due to the unusually low level of compensation. Now, I fully appreciate that compensation is not a matter for the examining authority. But when it is being used as a tool to effectively say agree this low level of compensation or we will not even begin to engage. That is a problem for the examining authority to consider.

1:03:02

And going back to the process only once the official sign up to those heads of terms and upload it onto the applicant solicitors portal. Might someone on the legal team begin to look at this. So as it deadline three, when the latest version of the lands light tracker was submitted, what under discussion meant is the the applicant has sent the template documents, but they will not discuss the terms of them unless the official sign up to heads of terms in the form and with the level of compensation provided by the applicant.

1:03:34

Now there has been some recent movement after we appeared on Friday today that we would raise the issue of engagement the applicant got in touch with officials on Saturday. I over this weekend to say that they would be willing to enter into discussions on voluntary documents. Once the commercial payment offer ie the cable payment and plan had been accepted. Or and they offer this in the alternative that legal advice can be taken with Priority legal areas of concern presumably which they will determine in the heads of terms but not in relation to the easement itself, which again will seemingly only be taken forward once the commercial offer is agreed.

1:04:10

Now, that is not how a DCO is supposed to work. It is not up to the effective parties to be pushed into accepting a low level of compensation as the hurdle to clear before the applicant will enter into negotiations. And that point was made quite clearly by the examination authority and the examining authority on the recent lower Thames crossing order. If the applicant cannot agree compensation, they must still try at all stages to reach agreement. And if compensation cannot be reached, that can be left a design that can be left to be decided by the lands tribunal. So compensation is not a barrier to engagement.

1:04:46

So my point is this. My clients have spent four years trying to reach agreement and the Atlantic is giving you one picture but it is a picture that is quite difficult for us to recognise the status update in the landscape tracker

1:05:00

seems to offer a relatively positive picture of engagement. But that engagement contains a little of substance or in some cases going backwards. There has been more than one time when officials have tentatively been offered something at a meeting, on site or by email only to be told later by the applicant that that change cannot be made.

1:05:19

Now, Mr. Lister mentioned on Friday as well that some parties have not shown not all affected parties have shown a willingness to engage. And I can assure you that we are very willing, my clients wrote to the applicant in November 22, with their position on the proposed application. That's November 22. And the applicant responded to that 11 months later, in October 23, after the application had gone in, and when it was too late to change anything in it.

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And other than a brief introduction this morning, I've not exchanged a single word with any of the applicants legal team, despite having been involved in this incident at the end of last year. So that is what positive and construction engagement means from the applicant.

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For now, therefore, the officials remain one of the 99 parties that are listed in the landslide tracker with whom agreement has not been reached, not one of the lucky three out of that potential 102 agreements, that has actually been agreed. And that's three months into the examination.

1:06:17

So the statements that have been made by the applicant and the information that the applicant has put forward are if I'm being charitable, not the whole picture. From my point of view, meaningful engagement is simply not happening. And the reason that I am having to appear here today and take up the panel's time is because we cannot get constructive engagement from or discuss terms with the applicant solicitor.

1:06:40

Now coming on to the point about compulsory acquisition being an option of last resort, the applicant in order to acquire get compulsory acquisition powers must have engaged constructively throughout all stages of big application. Miss Sutton is referred to the relevant guidance and I do not think I need to do so again. But what I will mention is the dclg guidance on award of costs and on the power. That's a word of cost for applications for development consent orders, and under paragraph 30. Of that guidance, an applicant wishes to minimise a risk of an award of costs should make sure that there is constructive cooperation and dialogue between the parties at all stages. I've explained how that is just not happening with my client. And what we've heard so far today rather suggest that picture is being reflected amongst at least some other landowners.

1:07:29

So our first ask is simple. Can the applicant please enter into discussions with officials in relation to the heads of terms and start to negotiate the easement that it says it is willing to grant I understand that resources may be stretched. And even the rampion to website says that the current consenting and development phase consists of a relatively small team. But the applicant does need to make sure that they have the ability to deal with the DCO application and that they are willing to deploy the resources that they have, without using compensation as a tool to block further engagement. I do sincerely hope that the next hearings we can we can come back to you with a more positive news on that point.

1:08:06

Now, that brings me on to the second point, which is the extent of the land take and how that fits in with what the applicant said on Friday about section 122 of the Planning Act and related guidance and how that's how those tests are met.

1:08:20

So the conditions for exercise of compulsory acquisition powers under the DCO are the land is required for the development to which the consensual aid consent relates and that there is a compelling case in the public interest. The applicant states that this test is met. We not we do not believe it is I will also hear refer to the dclg guidance on related related to procedures for compulsory acquisition of land on the planning at

1:08:47

paragraph eight of that guidance refers to reasonable alternatives. It states that the applicant should be able to demonstrate to the satisfaction of the Secretary of State that all reasonable alternatives to compulsory acquisition, including modifications to the scheme have been explored. So have all reasonable alternatives to compulsory acquisition being explored. Firstly, one alternative to compulsory acquisition would be to try to reach agreement. And I think I've set out I think I have set out earlier the extent to which the applicant has explored that option.

1:09:21

As far as modifications to the scheme are concerned, the applicant has said that alternative options have been considered. But that is not the officials experience early on during consultation. So nearly four years ago, the officials asked for the applicant to move the cable corridor further south. So if you

look at that plan, you can see that it follows split handle, it could follow split handle Lane further, more closely and it could cross over the B to 135 Before proceeding north, so that's an option that they asked them to explore

1:09:58

that would

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have sold a number of issues so it would have minimised the severance of sweet Hill Farm. As you can see from that plan, the current proposed cable route will leave severed several several severed areas of land towards the south of that field. So I just in the Northeast bit handle lane,

1:10:20

it would have reduced the land required for access. And for the cable route to turn northwards, it would have avoided abutting the ancient woodland on sweet Hill Farms and that's low on wood

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and avoided the need for a trench crossing of the B 2135. So that trench list crossing is the area where there was the inset or just to the north where you can see the confluence of the rivers, it would have avoided a trenchless crossing at that area which is prone to flooding with a confluence of all those tributaries, which feed into the river ADA.

1:10:52

Now, the disadvantage of the Fisher's proposed alternative, I following split handle lane, and then crossing over the B 12135. And proceeding north from there.

1:11:04

The disadvantage of that route is that it would have required the applicant to engage with several more landowners due to smaller land holdings on the eastern side and v 2135.

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And what officials have been told by the applicant is that that alternative is not suitable that the DCO route is better. But it is not clear why. And the applicant, as far as I'm aware provided nothing to show that is explored the alternative proposed my client, an alternative that is not just reasonable, but is also less harmful than the DCO route in as far as we can tell, almost every way but one.

1:11:41

Now, I'll move on to the test in Section 122. So the first limb of that test is that the applicant must show that the land is required for the development to which the development consent relates

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the guidance of paragraph 11 states that for that test to be made for that test to be met, the Secretary of State will need to be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development.

1:12:07

Now the applicant mentioned on Friday its justification for the land take and that is also explained it's a statement of reasons. So the statement of reasons at paragraph 9118. That's document a PP zero to one, the applicant states that it is currently envisaged that construction works will generally require a working corridor 40 metres, but it may be wider crossing points eg for trenchless installation.

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Paragraph 911 nine states that the typical corridor will be 20 metres but there is a maximum value of 25 assessed as a reasonable worst case scenario.

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So for the officials land despite the fact that this 40 metres are expected to be needed, there is about 70 metres that you can see particularly the top layer as it goes around the corner

1:13:00

that there is around 70 metres rather than 40. And it is generally significantly wider than 40 including at the bottom southeast corner.

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The examining authority will have seen that themselves at their site inspection last week.

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So that is, as we have said, and has been demonstrated considerably more flexibility than is required at other sites along the route. It's not clear to us why that line is so wide, and why the usual 40 metres is not sufficient on this side, because there is not a trenchless crossing across the whole site.

1:13:35

In its first written questions, the examining authority asked the applicant to provide justification for where 40 metres were exceeded. And the question was also asked again last Friday. And it still doesn't seem like the applicant can give any more specific explanation for this side, other than the response that gave in the response to the examining authorities questions at rep 3010 I that flexibility is required and more detail about the route will be identified during site specific expert investigations. Now, of course, you know this is the DCO detailed design comes later in some flexibility is required. But as with engagement, the question is one of scale. I understand the cable within the cable corridor for rampion. One was something like seven metres for rampion to they're saying up to 25. Three times as much.

1:14:23

Though it is we are just talking a different scale and a different scale of flexibility. It's quite clear that the applicant has not undertaken a sufficient level of detail design work for this stage of the project. So for example on the officials land the location where the applicant has proposed the trench crossing at TC 21 that is shown at the outline code of construction practice. For example, at rep three zero to four. That location is right on top of a hill and in the one single location on the land that is not flat. It's also right next to a pond. So and the one time that the engineers for the app

1:15:00

again came to the site and visited sweet o farm some years ago, the engineer Express surprised at the location proposed for the Chancellor's crossing.

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As soon as detailed site investigations, it seems quite likely that the applicant will understand that it's just not a workable location for a trenchless crossing.

1:15:17

Now, I appreciate the panel's suggestion earlier of making an amendment to article 25. Perfectly article seven about relinquishing powers out in the over the remaining land once further detailed design has been carried out. And I think that should be on the face of the order and would go some way to helping but it still does not resolve the fundamental problems of more land being taken than is required at this stage. Bearing in mind that flexibility is needed, but just not this March.

1:15:52

I mentioned severance briefly earlier. And I think it's worth picking up on that not only is the area wider than is needed, but it needlessly severs my clients land and leaves slivers of the field both of the southern and eastern side

1:16:05

approach is not really consistent with the applicants commitment in it's the 67 that have the commitment the commitments register, which is a PP 254 which indicates that the onshore cable route is likely to be routed to closely follow the line of existing field boundaries as far as practicable.

1:16:24

Now, you'll see from that plan that it is not following the existing field boundaries.

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The applicant, at the moment where the land is it can place the cable right up against the ancient woodland and it must be practicable to go closer to the field boundary of the mat.

1:16:41

Whilst we're on the subject of the ancient woodland chapter two of the environmental statement at paragraph 22 953 document a PP 063 states that all ground works will be restricted to areas in excess of 25 metres from the edge of the ancient woodland. That is that commitment is reflected in commitments register.

1:17:01

But the line that uses that red line boundary that you see there is clearly not 25 metres away from the ancient woodland it is right up against it.

1:17:13

Section 122 of the Planning Act requires that it's actually the state has to be satisfied that the area subject to compulsory acquisition is no more than is reasonably required for the purposes of the development. The applicant said it doesn't need to go closer than 25 metres of the boundary within 25 metres of the boundary of the woodland, but it clearly is doing so. So. So

1:17:37

the applicant, even the applicant itself at this stage even says that not all of that area was required to 25 metre buffer should be provided that red line boundary simply should not be as close to that area of woodland and we do not believe that compulsory acquisition that close to the woodland can be justified.

1:17:57

I think that brings us back to alternatives and justification for the land take. So if as the applicant may well say this site is a particularly difficult one, and so more land take is needed. Why then did it not pursue the alternatives suggested by the officials and turn northwards to the east of the B to 135 instead of my clients land?

1:18:19

There applicant has made the statement both in response to the examining authorities verse written questions and on Friday that all of the land is necessary to construct, operate, protect and maintain the scheme and that no more land has been required and is reasonably necessary. I think we've demonstrated that just is not the case the applicant has not sufficiently considered alternatives and they are compensating for a lack of site investigation and poor route choice by maximising the area over which they propose to exercise compulsory acquisition powers. So this limb of the test in Section 122 is not met.

1:18:59

Finally, and secondly, I'll cut I'll come on to the compelling case in the public interest. Miss Hutton has explained this test so I don't think you need to hear the legal test twice and I won't won't repeat it. But what I will say is that we do not believe that the applicant has demonstrated that all of the land within sweet Hill Farm has been shown to be necessary for the purposes of the scheme.

1:19:20

And there are clearly less harmful alternatives which the officials have proposed which take less land, avoid ancient woodland and avoid flooding issues, and the applicant has failed to give adequate reasons why it has dismissed them.

1:19:34

Furthermore, Miss moss mentioned after we resumed at the break that it is appropriate to include compulsory acquisition powers where it is not practicable to acquire land by agreement.

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This not practicable point is important that is reserved matters where consist of and constructive engagement throughout the process has been unfruitful.

1:19:55

I have explained why that simply does not apply here are explained how the applicant has not engaged

1:20:00

Through the process in a meaningful way, and how it's approached a negotiation is except this low level of commercial compensation or we won't discuss an agreement. Logically therefore, it is not appropriate to include compulsory acquisition powers. Because no meaningful attempt has been made to acquire land by agreement. There is no compelling case in the public interest.

1:20:20

I therefore draw to the panel's attention that as stated income the compulsory acquisition guidance, there may be circumstances where the Secretary of State could reasonably justify granting a development consent for a project, but may decide against including an order in the order the provisions authorising the compulsory acquisition of land.

1:20:41

This is therefore clearly a circumstance and circumstances in which it is open to the Secretary of State to consider removing some or all of the compulsory acquisition powers provided in the within the DCO.

1:20:53

That I will refer out now and thank you for your patience. But we have two very simple asks the applicant. Firstly, we would like a clear and legally binding commitment from them to narrow the cable corridor and place it as far to the south and east of my clients land as possible. So that hugs the existing field boundary minimises severance, and goes no closer to the ancient woodland on their farm than is necessary.

1:21:18

Secondly, I would ask that the applicant engage with officials, advisors, me and the land agent, so as to give that form that commitment in the form of a legal agreement without compensation having to be agreed first, the engagement will need to involve involve both land agents and lawyers from both sides because professional advice will be required to ensure a binding agreement is reached. And it should include an undertaking from the applicant to pay the officials land and land region, legal and land agent fees.

1:21:49

Finally, from the examining authority, I would ask this, that it monitored closely the extent to which further engagement is constructive and productive. And that if agreements are not reached, that it consider whether it would be appropriate to recommend sorry, recommend the removal of any of the compulsory acquisition powers from the DCO. Thank you.

1:22:11

Thank you, Miss Ellison. I think we will break there for lunch and return it to when the applicant will our opportunity to respond to what you just heard. Thank you