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00:05

Good morning or good afternoon ladies and gentlemen, it's 12 o'clock so the hearing is resumed. Ron's session two which is the individual cases. In terms of the matters that we're going to discuss today that are in the agenda, I will turn to each affected person and ask them the ask that they make the representations to me. I've set out in the agenda higher proposed to deal with each of the affected parties. And that is that I will ask the affected party Firstly, to summarize their objection to the proposed CRTP power sought by the applicant. I will then ask the applicant for its response to the APS objections. And in responding to the APS objections, the application, the applicant should make its response proportionate to the objection and address the following matters. Firstly, the applicable statute and policy tests relevant to ca under TP the dclg guidance 2013 Secondly, the human rights considerations as relevant and thirdly, any other important and relevant considerations bearing on the objection heard. I will ask any questions that I may have with regard to that. Aap AP, and the AP will then be given a final rate of reply with respect to its ca or TP objections to understand the nature of the process. So I'm going to hear from Mr. Ashe and then I will hear from Mrs. Garbutt on behalf of the hills. So if I turn to Mr. Ashe first, Mr. Ashe. Can you just confirm to me then, and summarize what your objection is?

02:09

Highest and Christopher ash, I'm a landowner on the northwest fringes of the Caperton development, I would firstly just like to point out that I have not received any communication from the applicant relating to my property other than the initial around two years ago, CPOE notification which drew the line straight through the middle of my residential property. So I've obviously been listed as an interested party in this transaction. And I haven't had any communication around it. I actually found out about this hearing, because my wife met someone in the woods and said, Do you realize your name appears on the website suggests you better get to the hearing and find out what's going on. So I just wanted to make sure that I am actually an interested party, by definition of this hearing first.

03:00

Sorry, I'll let the applicant go into the detail but because you are identified in the book of reference, as having an interest in that land that they propose to compulsorily acquire or CPE or TP, then you are what is referred to as an infected person. You have an interest in land, the nature of the interest in land, it may be helpful, I suppose. I'm not sure whether it would be helpful for the applicant to explain what the interest in the land is that they're proposing to acquire? Because that may deal with some of the objections and some of your issues.

03:35

And most likely word yes. Because if it's obviously not my residential property that included this, you know, this conversation is going to end fairly quickly.

03:42

But that's, that's what I gathered from that, and I think it probably is, so maybe if we can get them to confirm what the issue is, then that may deal with you and then we can come back to you rather than the process we've gotten to applicant please.

03:59

James jury on behalf of the applicant. Yes, Mr. Ashe is interested in land is in respect of rights across land. Joining as I understand is property and their rights to pass and repass over a track and rights to use a drain and an outlet covered in a deed dating back to 1977. It's unclear as to exactly where the drain and the track are over over the land that is within the red line boundary, but we do not believe Mr. Ashe owns any land within the red line boundary.

04:48

Sorry, yes. Chris says yes, I would agree from the extent of the order limits. The red line is outside of my boundary. There is a culvert that runs down the side of my property which takes the drainage from the land including the 40 acre field at the Northwest stage of the scheme. So the end there is an easement on my deeds allowing the landowner that owns the current land to access my property to maintain the culvert to prevent it from flooding the fields and inundating my property at the same time. But if that's the extent to my interest, then clearly, you know, my further questions are sort of irrelevant, although I would point out that my property is actually listed by English Heritage in 2015, under the English Heritage farmsteads, project 3006 as a site of interest, although it is not protected in any way. But whether that's relevant to this current hearing, I'm not sure. But the my actual land is actually a physical residential property, hence my question to the applicant earlier, because I was concerned when I originally received the initial SEPA notification that there was a line drawn right through the middle of my residential property. And I've had no subsequent communication or negotiations with the applicant on this matter.

06:17

So as I understand it, you're talking about an area of land within the red line, which provides access or drainage, and you're seeking to take that interest and purchase that interest as it were.

06:38

James jury on behalf of the applicant, yes, that's correct. The within within the land titles that we've identified. The rights are owned by Mr. Ashe, in respect of a track and the drainage are included in the pink land to be acquired was actually as part of the option for the acquisition of that land. I think, in response, if I if I'm able to just respond on on the points of this point? Yes. I think in terms of the the engagement point, as I understand it, you're first contacted with regard to the Land Information questionnaire in May 2022. It concerns me that you say you haven't received any further correspondence. And perhaps we need to find out perhaps, if that is the case, why that has happened. Because we believe we've sent section 42 notices regarding the consultation in June 2020, to the targeted consultations letters in November 2022. And a section 56 confirmation of acceptance of DCO and proceedings to the examination on the 28th of February 2023. As well,

08:00

as my only concern is that I've actually had any any direct representation from the applicant relating to the the actual points raised. I mean, I am aware that there been some general notices, and I've also logged on to the website, I printed off the from the planning portal, the full application. But I've had note that this is the first time I've known of what the issue was with regard to all I would could assume from what I've read so far, and the fact that my name appears on this piece of paper, is that you intended to CPOE my land for some reason for which I had no, no knowledge of the reason for. So, yes, I respect that. I've obviously received emails and letters on the general process. And I have lodged a genuine objection to the scheme, which I've already properly lodged in accordance with the process. But specifically, with regard to the matter we're discussing today, I have not had any direct approaches relating to the issue around the culvert or the track in terms of access.

09:01

So could I just interrupt for two seconds? Could I just check that what's being shared on the screen at the minute which is the event has been adjourned can be updated so that we can have the I

09:22

Can we just take take that up darling? Or unshare that bit?

09:34

Not quite sure why, why that shared is the main thing, but as long as it's still alive, then that's fine. So apologies for that. Just get somebody to sort out what's up on the screen, but apologies, Sorry, continue.

09:49

So I'm just wondering what the extent is of the, of what you're requesting me to agree to or not as the case might be, because I haven't actually been asked to agree to anything. So I think He's only respectful for someone to actually tell me what's going on, please.

10:06

Sir James Dewey on behalf of the applicant, I think it's probably best that now there's a bit of a further understanding and understanding that we perhaps have a discussion if you're prepared to after, after today, so we can, or today, should I say, at the end of the of this morning, or this afternoon session so that we can further understand the access track and the drainage? And then we can discuss that and see what what issues that may exist and how we may be able to resolve those.

10:39

Okay, that's fine.

10:40

I think what would be helpful would be if you take it offline, as it were, have some exchange of letters or information between your parties. And then if that resolves, Mr. Ashe is concerned that it's not his property that's being sought to be acquired, but its rights of access been. And that's something that you're comfortable with, then you could withdraw your objection, as it were. And we could get a sort of

an agreed position statement, as it were between the parties in respect of the land interests, which are identified in the book of reference. Now, that to me, would be the military.

11:24

I agree with that. I do have a full title deeds with me. So we can look at that afterwards. Yeah, great. Thank

11:30

you, that would be very helpful, thank you.

11:49

Not necessarily wanting to put particular deadlines on these things are somewhat more complicated to get things but I'm not saying by deadline three, but maybe by deadline for us, we could get it resolved. But if you can do it by deadline three, that would be great. But obviously, you need consideration, take advice, whatever matters to it might take a little bit longer. But as long as I'm aware that that discussion is taking place, and that there's potential resolution to then that satisfies me and that might be that that can be done by deadline for.

12:47

Okay, so in that case, then could I turn next to just guard it on behalf of the hills, and there are two separate objections here, but they're related to the same area of land as it were. I'm not sure what the nature is. I've got it done as plot 12, nine and 1218, which relate to sort of public roads and verges and temporary possession and permanent rates for cable, including access and construction compound, which is the nature of what the ground is required for. I'm not sure if they haven't given you a statement to read out or what the what the situation is, but if you want to jump in and give us your view.

13:36

Thank you. Yesterday, Mr. Hill and Miss Hill have given me a statement to read on their behalf so I'll reach without if that's acceptable. Nick Hello, no Hello owners of the agricultural field as cited, which is obviously situated in open countryside and south of Martin is in within the site but zones two and three identified by the environment agency's flood map for planning. The background of this is Mr. Hill has held long term plans since the age of 18. To have an agricultural business, Nick and Emma Hill bought this 15 acre field to realize his long held dream. They also built bought a further 23 acre field in the area to help develop their agricultural business. Mr. Hill is the fifth generation of his family to live in the Virgin wants to remain there and grow his family business for future generations. The land currently has a crop of sugar beet growing in it, which will go to the British sugar factory at Nuuk. This is a much needed crop. Join last year's weather conditions the sugar beet crop across Europe was impacted. locally grown food is needed by us all and is an economic benefit to the country. Mr. Hill has worked this land to bring it back into food production. Prior to Nick and Emma Hills ownership, the land was not utilized for approximately 10 year period. Therefore, Nick and Emma Hills agricultural businesses viable and growing. Moving forward, they want to develop and expand their agricultural business further. To this extent, Mr. Hill sought planning permission for the erection of two agricultural storage buildings by the access to this field to house machinery and equipment. These buildings each have a footprint of 64 square meters together with a permeable heart standard. The planning permission for this development

was granted in 20 January 2023 by Westland District Council. Prior to this, Nick and Mr. Hill met with the applicants representatives along with IGP on site. Unfortunately, both Nick and Mr. Hill felt humiliated and intimidated by the applicants representatives on that occasion. And one occasion Mr. Hill was laughed at by the applicants representative saying that you haven't got planning permission yet. They have also repeatedly told the applicants representatives that land in question will be compulsorily purchased, sorry by the applicant representatives. West Lindsay District Council received an objection from the applicants representatives regarding Mr. Hills plan application. And moreover, the applicants legal advisors, Pinsent, Masons wrote to Westland District Council to say that Mr. Hill had met with them and would seek an extension of time to his plan application. Mr. Hill then had to write to clarify this issue to say to the case officer, that this was not the case and he did not want an extension of time. It appeared to both Nick and Emma Hill, that the application the applicant sought to unduly influence the planning process without his consent. Notwithstanding Nick and Mr. Hill having have endeavored to engage in dialogue with the applicants representatives, and to that extent, have offered away leave or lease of their land, by way of accommodating the applicants needs. However, Mr. Hill has been told that the applicant is seeking an easement only. It appears to Nick and Mr. Hill, that if the proposed development is temporary, than a way level lease agreement would suffice. Mr. And Mrs. Hill are unsure why the applicant needs a permanent easement agreement. And going from this Mr. Hill and Miss Hill reserve, obviously any right to make further comments in relation to the proposed compulsory acquisition of their land, and may also do so in writing terms to the legislative and policy tests for the compulsory acquisition. Thank you.

18:15

The applicant like to respond?

18:17

Me Sterling on behalf of applicant? Yes, I'm conscious that Mr. And Mrs. Hill are in attendance today. Would you like us to respond to their written statement as read? Or would you prefer to respond in writing so that they can receive that response directly?

18:36

Do you have any further instruction from the hills in how to respond during the debate because if it's just simply here's a statement, then it would probably be better for just getting a written statement from the applicant. And if they've given you some further information that would enable you to respond or have a dialogue with us and I will get the applicant to give me their general response and then give you an opportunity to respond to that. And obviously, beyond all of that, there will be the opportunity for responses by deadline, three anyway, because they're not here and they can provide a written comment on that anyway. And then they would get get the opportunity to provide a response to the written statement on the oral responses after deadline three, four deadline for in any case. So I, I will respond to the applicant question on the basis of how you respond.

19:43

The Thank you, and they haven't given me any further explicit instructions. Obviously, I can't know what the applicant is going to say at this present time, but I do have general information. I'm aware of it The

applicant wants to respond, then I can see if I can answer if you'd like in this in this hearing now, if I can't obviously, I'll let you know if that if that suffice, I'm not sure,

20:09

I think, to at least get an understanding of what your response may be. Yes, give me a full and proper response in writing at deadline three, as a supplement to your written representation of the oral response. But if you could just give me some headlines now that might be helpful.

20:32

Of course, on behalf of the applicant. Yes. And firstly, just to clarify, yes, the applicant did engage with the planning permission, which Mr. And Mrs. Hill sought, the representations were made to seek to ensure coexistence between the development for the planning permission being the two brands, which are mentioned. And the schemes that engagement was on behalf of the various other projects, which are putting their cable through this land, a capacitor, Mr. Dewey, who can give you an update on our understanding of the most recent engagement with regards to obtaining voluntary agreement from Mr. Mrs. Hill. And we're heartened to understand that it may be their position that they are willing to grant some form of voluntary agreement. Thank you.

21:27

Hello, yes, James jury on behalf of the applicant. So we we have engaged with Mr. And Mrs. Hill, we issued a set of heads of terms to them to give some clarity over the sort of offer that would do will be available to them. Mr. Hill has has responded to that with a revised position. And we have gone back to him setting out our response to that position, including reasons as to as to the preference for an easement over the way leave on a lease and the reasons for that, in response to concerns is raised regarding the construction of the bonds. The applicant wants to work with Mr. And Mrs. Hill to seek if there is some way that can be achieved whereby the cable routes can be scrubbed constructed in a way that doesn't impact on the on the construction of the other two barns but we need to engage with Mr. And Mrs. Hill and we need them to help us with that in engagement so that we can understand that position fully.

22:42

In terms of the question of the nature of the actual easement, or wayleave that they're proposing, you're looking to permanently acquire something. What's What's the position there? What are they offering? And what are you suggesting you need? I assume you're saying temporary access. And you need permanent cable security basically. Yeah, so

23:10

it's temporary temporary access during during construction and then permanent easement for the cable five, five meters either side of the cable, so a total of 10 meter width of easement.

23:35

And they have suggested an easement or wayleave.

23:40

They've sort of suggested a way leave or a lease where you want to go into too much detail about the commercial sort of discussions between Mr. And Mrs. L. But as I say, we've responded as to as to why we consider that an easement may be beneficial to them also.

24:07

Okay, so we've got a rough update on where things are. Do you have any comment on that? And

24:17

I'm sorry, yes. And just one thing I'd like to say, I know, Nick, and I have stressed this that they wish to develop this site and develop their business further. So therefore, this acquisition or easement will prevent their ability to do so in terms of freedom to decide and develop this business in the future. It is a you know, in its early stages, they've got long held plans to do so. So it's just not a it's not simply the plan application as it currently stands. There's further development hopefully, in the long term. So this prevents future development and enjoyment of their land and business for future generations also, thank you

25:16

know, permissions or other approvals that would facilitate those plans that they have?

25:28

No, that's correct.

25:40

Yes, James James jury on behalf the applicant, just just in response to that, of course, Mr. And Mrs. Hill will have the ability to make a compensation claim for any losses that they feel that they suffer as part of the compulsory purchase compensation legislation.

26:09

Do you have any final comments on behalf of the hills?

26:13

You Yes, sir. This isn't about compensation or money for Mr. Hill or miss Hill, they want to develop an agricultural business on their land in their village that they've lived in, and five generations before them of a future generations. It's not about you can't just compensation isn't compensation. Thank you.

26:35

Thank you very much.

26:42

There's obviously some negotiations ongoing there and discussions that will need to continue. And it would be helpful if as part of your note on the the written comments on the Note that you sort of expand on the issues that are there that will then give the hills the opportunity to make further written submissions if they need to. And it may well help if you engage with him and see where we get to with that, that that process so that we can seek to move to resolving the issue and getting Yeah, the

objection withdrawn. But obviously, if not, I had to arrive at a conclusion. So the information I have that will facilitate that for me would be helpful. Okay, thank you.

27:43

Amy said standing on behalf of the African M Just to confirm so that yes, we will engage with Mr. And Mrs. Hill and it is our firm intention that the parties can coexist in this area. And that Mr. And Mrs. Hill were aware of the proposals or should have been aware of the proposals which were public when acquiring the land. And as you've noted, so that they would have to seek further consents in relation to develop that land further. Nevertheless, we are in regular contact with them as Mr. J has explained and we will endeavor to resolve any outstanding objections

28:15

Thank you very much

28:26

okay, I don't believe that we have Mr. Kimberly available. But if they do decide to look at the stream or the recording and wish to make any comments to the to me then if they could do so by deadline three that would be helpful. I don't think we've got any other affected persons here available. So in that case, I shall move on still appear to have this event has been adjourned on the screen. Not sure where that from but hopefully the live stream is still seeing me or whatever in terms of sharing the screen maybe if you wanted to share the if the applicant can share something maybe that might be overrated or something of that nature, if you share, share the the agenda

29:27

as needed for the applicant. We are currently sharing the agenda. We believe it's a issue at the planning inspector it's and with the person who is sharing externally from this room

29:48

so it's only internally it's only in the room here confusing us. But thank you very much. Live Stream is fine. So that's good. In which case we're looking at the item 10 On the agenda so people can see that next one, item 10. On my agenda is a review of issues and actions arising.

30:18

Just go through any issues that I've noted over today, I've got

30:25

four or five items for the applicants who are going to provide me something on the options agreement

30:38

in terms of a statement, but that you are going to provide me as a second item, description or further information on the heritage buffer. Third item you are going to provide me with the letter from Saturn Trent. The fourth item, you are going to give me a press A or rundown of the commercial agreement with National Grid, if not able to provide me with the agreement itself because it's commercially sensitive, fair enough. But you're going to give me something to outline what the nature of the

agreement was, so that I could understand what was secured in that. And then, finally, between the applicant and Mr. Ashe, you're going to provide or I was going to be provided with a position statement on the land interest by deadline for it was earlier, the issues and actions I had arrived this morning, as they will probably collate or publish all of the issues and actions from each of the various hearings over the week by the end of this week or started next week. But that just gives you an indication of what they are so that you can work on those. Item 11 other any other matters. anyone wishes to raise with me today. The matters are good, none that I wish to raise. Nobody else has raised any with me. Can I then remind everyone that any written summary of their oral submissions today are put that were put at the hearing and any documents that have been requested to should be provided and submitted by deadline three, which is Friday, the first of September. That just leaves me to say thank you all very much for attending and for your contribution and participation today. Thank you The time is no 1234 and the compulsory acquisition hearing is now closed. Thank you very much