



Hearing Transcript

Project:	Stonestreet Green Solar
Hearing:	Compulsory Acquisition Hearing 1 (CAH1) – Part 2
Date:	20 November 2024

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00:00:00:00 - 00:01:06:25

Unknown

So if you just give me a moment to count, just so I think it's safest out of the question. We'll take it away and come back if we can. Okay. I'm bouncing back to Article 22, which refers to the compulsory acquisition of land draft DCO, Article 26, which refers to compulsory acquisition of rights and restrictive covenants set out in the explanatory memorandum as 006 that is requesting compulsory acquisition powers in case of in case landowners default on voluntary agreements for landlord interest in the land to merge.

00:01:06:27 - 00:01:46:21

Unknown

Heard what you've said about having a lot of agreements in the pipeline, but noting that the need to ensure that the extent of rights and interests to be acquired have been minimized and that disproportionate unjustified interferences to human rights would be avoided. Is it necessary to share the compulsory acquisition powers so that it can only be used when landowners default on some real agreements or unknown interests in the land emerge emerge so that in each case it's the minimum extent necessary?

00:01:46:24 - 00:02:23:18

Unknown

I think it's largely answered that question previously, But yes, I mean, obviously when you've got a private agreement, all three parties power becomes a backup. Only in that scenario where things don't go as anticipated. We would say that it's not reasonable to limit the compulsory acquisition powers in that respect under state, the category of unforeseen circumstances that might arise.

00:02:23:21 - 00:03:12:22

Unknown

It's impossible to predict, but a debt if trying to define what a default might look like is would be very tricky thing to do and there's no guidance or precedent to say that it is necessary. That's one side of the coin and the other one as well is that again, the the need case that if you've established established a compelling case in the public interest, there is an urgent need imposing that limitation that if someone doesn't follow through on their agreement or even out of their control because they become bankrupt or something of that sort and lose control of their property, that you have to go through a process of showing a default and your

00:03:12:22 - 00:03:54:13

Unknown

powers being limited, you know, creates delay is is antithetical to meeting the needs they that's what you say in response to that. The. Okay. Thank you. Does anyone else wish to speak on any matters under this item and I'll item three I would be grateful if that justifies the case. In relation to Crown Land placed its position as to whether it has obtained consent from the Crown under Section 135 of the Planning Act 2008.

00:03:54:16 - 00:04:25:16

Unknown

As we as I understand it from the book of reference, the Secretary of State for Transport to give you the floor, please. Thank you, sir. Yes. Key finding of the applicant is correct. There are a number of crown land plots included. They are all due to the interest of the Secretary of State for Transport and therefore unsurprisingly, they are all around the railway part of the site.

00:04:25:18 - 00:05:10:04

Unknown

And as a result of that, the draft consent order asked for includes an article, Article 42, which had the Crown rights and provides that the order does not prejudicially affect any estate, etc. If the Crown and the undertaker may not enter on or take any crown land other than with consent obtained in advance. So that is as required by the by the statute, Section one, three, five.

00:05:10:06 - 00:05:41:12

Unknown

And then that's the provision made in the DCI then. Turning to your question about an update, factually, the position is the applicant has been engaging in discussions with the Department for Transport for some time since May 2022 in order to secure the rights and access necessary to carry out the relevant parts of the authorized development and to obtain the consent of the Crown to inclusion of these provisions.

00:05:41:15 - 00:06:19:21

Unknown

The latest position is that on the 14th of November of this year, so quite recently, the DFT has now come back to the applicant. They have requested an undertaking for their costs and costs of providing the necessary consent. The applicant is is certainly happy to do that. Nothing unusual about that. And as in is in the process of providing that undertaking at the moment.

00:06:19:24 - 00:06:43:19

Unknown

So the update therefore is that matters are progressing. The DFT have now come back to us positively enabling enabling matters to progress. Matters have not yet completed. It's fair to say. But as the applicant has had discussions with the DFT, as I say for some time and at no point has the DFT indicated the consent would not be forthcoming.

00:06:43:19 - 00:06:58:29

Unknown

So we've got no reason to believe that it won't be. It has to be before we provide it. So that's the update as of today, and we will provide updates during the examination. Thank you.

00:06:59:02 - 00:07:43:11

Unknown

I do have some thoughts on two other government agencies. I would appreciate your comments, but mindful you may want to respond in writing at the next deadline is pertaining to Network Rail and the Environment Agency. You are arm's length department or government bodies, but you are not set up as a company which can own land. And therefore, I think that Network Rail holds interests rights and land on behalf of Department of Transport and the Environment Agency holds interest rates and land on behalf of Defra.

00:07:43:13 - 00:08:30:08

Unknown

Assuming I'm correct, can you clarify that not being included as Crown land interests and the book of reference and supporting statement of reasons? As I say, it may be something if you want to take a windfall with a in writing, but if you do have any initial comments, grateful to have you say yes, I understood the point. Initial comment was put in there in writing.

00:08:30:10 - 00:09:10:20

Unknown

I mean the Network Rail and the Environment Agency to fall within the definition crown land within Section 135, I think would be a departure from established. Understand it's not just understanding about it, but recognize the pointing, right. That we will take it away and provide an alternative. Thank you. And finally, on a site, I, i not from a schedule of no negotiations that hit you comment it on the agreement.

00:09:10:20 - 00:09:29:19

Unknown

So negotiations with the Department of Transport just ask what is the contingency plan of alternative options in the event that the agreement cannot be reached?

00:09:29:21 - 00:09:56:14

Unknown

I can't point to any express contingency plan on the basis that we're planning on consent being obtained because we haven't got any indication. We've no reason to think there is any reason that consent would not be provide. It's I will take that away though, and provide, if not the officer in writing as to what the backup might be in that scenario.

00:09:56:16 - 00:10:40:18

Unknown

Okay. Thank you. Does anyone else wish to make any comment on this item? Mr. Turner. Thank you, sir. Jonathan Tenant Support Group. I'm just hearing what council has said about a number of issues. Where shall we say there's some uncertainty about settlement of aspects, not least of those the Department of Transport, which you, sir, just just raised. I wonder if you can help me with where we stand with the project, if there are items that cannot get completed or get delayed and pass your own deadlines, can those who we represent understand where this goes?

00:10:40:18 - 00:11:01:10

Unknown

Does it become a DCO, which is subject to various things yet to be sorted if it were to be consented? Or does it never get to that stage? Does it get delayed? Can you help us with the sort of juxtaposition of those things at all? Clearly still not settled and there are quite a lot of them that have been discussed for a very long time, and they're not there yet.

00:11:01:13 - 00:11:33:24

Unknown

Thank you. We are at the start of the examination process so that there's still six months and register for the applicant to resolve this issues and the applicant is aware it is in its best interest to do that. If I make a recommendation to the Secretary of State, I have to assess if the statutory tests have been met.

00:11:33:26 - 00:12:06:21

Unknown

So to answer your question, then it would be a risk of the applicant if these things aren't concluded by the end of the examination. Thank you. So it's just the the Department of Transport, the invulnerable or the likes of Hs1 and National Grid that are in vulnerable to compulsory powers that are held under the DCI by the applicant.

00:12:06:24 - 00:12:48:22

Unknown

Sorry, could you repeat that? Yes. I'm just wanting to ascertain those parties that are in the book of reference, are they all vulnerable to compulsory powers if those come to the applicant as part of the DCO or like the Department of Transport through Crown Land, are others not vulnerable and therefore it is a potential problem for the project as a whole In terms of Crown land, the acquisition of 50, it's more by agreement rather than acquisition.

00:12:48:22 - 00:13:25:28

Unknown

So that that's that is the starting point and end point. So I wouldn't say the vulnerable just that, that there is a statutory process and tests to be met and the applicant as part of the application. Well, and that actually try to meet those and resolve the issues by close of examination.

00:13:26:00 - 00:14:11:09

Unknown

Are there any other questions on this item So we could move on Item five, statutory undertakings. So if I could ask the applicant update as to the latest position in respect of operation in the land of statutory undertakings and agreements? Yes, Thank you, sir. Not for the applicant, the statutory undertakers. The again, looking at the schedule of negotiations, ap zero double to the interests of a number of statutory undertakings are affected by the land and right sort.

00:14:11:11 - 00:15:00:14

Unknown

Table three sets out the status of negotiations about the point of application, and in respect of all of those, the applicant is committed to protecting their interests by protected provisions in schedule of that either standard provisions or bespoke provisions where the undertaker has requested the the protected provisions. Well, we say appropriately safeguard the statutory undertakers interests in the normal way, whilst enabling the project to proceed to in terms of any specific statutory undertakers where an update or further information could easily be provided dealt already with.

00:15:00:17 - 00:15:36:21

Unknown

EDF not actually a statutory undertaker in this case, but come to tell them already the national Grid is going to comment on. They are one of the statutory undertakers with whom. So you've asked for a statement of common ground to be entered into. Understandably so. That is progressing a draft statement. Common ground exists and aim for that to be submitted accordingly just in time.

00:15:36:21 - 00:16:18:13

Unknown

Just to summarize, I'm going to summarize the position in respect of National Grid Electricity Transmission Ltd and UK, and because it's important to, we appreciate the relevant roles of those two parties that the national grid in this up the selling substation. The applicant has included compulsory acquisition powers to ensure that the land and rights are available to expand that selling substation which is on national grid, freehold land, the land and rights and the powers to do so will be made available to UK and UK.

00:16:18:13 - 00:17:01:04

Unknown

PM and all contractually obliged under the Grid Connection Agreement to provide that connection and compulsory purchase powers will enable them to do that. It will also enable them to install a grid connection cable from the site to points of connection at and protective provisions are included for National Grid in schedule 30, so that National Grid and then UK and as I say, the applicant has received and accepted a grid connection offer from UK.

00:17:01:06 - 00:17:57:26

Unknown

UK point is that the distribution operator for this part of England and is licensed by Ofgem to distribute through trusted homes, businesses and the Grid Connection agreement is with UK partners. The distribution distributor in charge of the distribution network. And it's a, as I said before, 99.9 megawatts grid connection agreement. And so although the the connection is to the substation selling substation, which is on national grid land, it is ukpong with whom the grid connection agreement is with and it is you KPN, who are contractually obliged to provide that great connection as to what that grid connection comprise is, I would just deal with that.

00:17:57:26 - 00:18:32:27

Unknown

It's the three elements. Now you've seen that grid connection agreement summarize. It's the project substation, the cable route corridor and the extension of the summit seven substation. The applicant will be primarily responsible for the project substation, but Ukpong primarily responsible for cable corridor and selling substation extension. That's the division of labor. And it's not so by way of context.

00:18:32:27 - 00:19:13:21

Unknown

And just coming then to one of the points so you raised this morning about new KPN and their role within the DCI in the context of compulsory acquisition UK p n r which is the right position, saying that the way it works is that undertaker in the DCI is defined to include the applicant Apple Ltd and any person who for the time being has the benefit of the order under Article six.

00:19:13:23 - 00:20:17:05

Unknown

Under Article six you KPN truck benefit of the order can be transferred to you KPN in respect of works three and four so that the cable route corridor and the selling substation extension that in turn means that you KPN have compulsory acquisition powers to achieve those works and to to acquire the London rights to achieve those work. So you KPN become a become a not the undertaker for the purposes of, for instance, Article 22 so not fit, not for purposes across all the land as a whole, but in respect of those works, three and four you KPN are have the compulsory acquisition powers to acquire the necessary land to extend the selling substation and deliver

00:20:17:05 - 00:20:47:12

Unknown

the cable route corridor so I can see understand that the focus of that with National Grid, the basis now that the people who own the land on which the substation will be expanded, they own the transmission network. But this, this solar farm project is connected in to the distribution network, which is Ucp's responsibility, and the agreement is with the UK.

00:20:47:15 - 00:21:22:03

Unknown

I want to be clear that that's why you KPN, it's important involved in in this and have a role in the DCI. And I was just going to slightly going into your next agenda topics about your question about funding this morning for you. KPN was probably where this was going on the basis that you KPN can exercise compulsory acquisition powers, but the funding statement obviously relates to the applicant's point you made.

00:21:22:06 - 00:21:55:01

Unknown

Well, we say that that there should be no doubt or issue about you KPN funding for three reasons, really. Firstly, you KPN, a statutory undertaker, and it can be seen that statutory undertakers have funding to discharge their functions, which this would be connecting into the distribution network. Secondly, you, KPN, have entered into a contract with us to do this, and they wouldn't do that if they can discharge it.

00:21:55:03 - 00:22:36:23

Unknown

And thirdly, and importantly, if protection were required, it is provided it's because of Article 49, which I touched on earlier, which is an important article because it means you undertake you cannot exercise the powers, including compulsory acquisition powers, unless until it has put in place a guarantee or alternative form of security in respect of compensation. So it is not the case that compulsory acquisition can go ahead until that guarantee or security is in place.

00:22:36:23 - 00:23:08:26

Unknown

So that gets around any issue as to whether there is any, but it is the security of funding respect of UK that would apply to them as well as us as the applicant source. So that's a very lengthy explanation. Be so worthwhile respect to the UK. PM Given that particular role in this case, the third and final undertaking I was just going to touch on was Network Rail.

00:23:08:28 - 00:23:52:11

Unknown

So they the cable, as you pointed out, said by reference to the ducting will go on to network rail infrastructure and Network Rail has indicated that their preference for using the existing what they call under track crossing that the existing docks. As I say, it is our hope and expectation that those existing docks will be able to be used, which would fulfill network Rail's requirements essentially, if that's not the case, which we will find out in short order, we hope, then obviously that would need to be discussed.

00:23:52:11 - 00:24:22:28

Unknown

With that, we would do say expeditiously so matters not final result with Network Rail as yet. In terms of negotiations still ongoing, there's a draft statement of common ground which exists with that rail will be submitted in due course. That is an update of where we stand with Network

Rail. Okay, thank you very much. I did have some supplementary questions, but you've answered them in your presentation there.

00:24:22:28 - 00:25:28:15

Unknown

Thank you. Does anyone else wish to make any comments on this issue? Okay, so I'll move on to item six. Funding. So regulation five, subparagraph two, each of the infrastructure planning applications, I prescribe forms and procedures Regulations 2009 provides that if the proposed order would authorize the compulsory acquisition of land or an interest in land or right over land, a statement of reasons and statement to indicate how in order, I contend the authorization of compulsory acquisitions is proposed to be funded in paragraph eight in 18 as they apply to and in guidance states that applicants should be able to demonstrate and prove that adequate funding is likely to be available to enable compulsory acquisition within

00:25:28:15 - 00:26:07:07

Unknown

the statutory period following the order being made, and that the resource implications of a possible acquisition resulting from a flight notice up into account of the submitted funding statement AP 0 to 1 doesn't provide me with sufficient assurance about the corporate structure, financial standing and summary of recent accounts to conclude that sufficient funding is in place to put the applicant provide more detail on comment and obviously follow that up by deadline.

00:26:07:07 - 00:26:34:19

Unknown

One place, sir. Yes, we heard that. Chris, thank you. We will take that away and seek to do that. Just for the avoidance of doubt. We that funding letter produced to try and reproduce what has been provided elsewhere. But I'll say that we take up all the requests that have been made and we will seek to action this case.

00:26:34:20 - 00:27:33:03

Unknown

I keep. I'm also mindful of changes in the economy over recent years. The concussed estimate for the project started with a funding statement in paragraph 2.2 on approximately 150 million. I'm unclear whether this includes an allowance for any contingency inflation. Interest rate rises. As I mentioned before, potential claims for blight doesn't include decommissioning costs. So what I'm asking it would be useful, have a full breakdown of costs and any percentage of influence on those items I've meant mentioned, such as inflation, contingency, interest rate rises.

00:27:33:06 - 00:28:04:01

Unknown

It's a yes 90 again request noted the we will seek to action that I mean by way of overview. See we've reviewed the position since that funding statement and that cost estimate was provided with the position on a high level is that they we are confident that the project cost estimate remains robust. If anything, the cost is likely to decrease, not increase.

00:28:04:01 - 00:28:40:05

Unknown

It's our position that we we understand the request that we will seek to provide the information. Okay. Thank you. And finally, on this item from May, please could you confirm comment that there are no business extinguishment and relocations proposed which would necessitate potential compensation repayments which would need to be factored into the funding statement? I can confirm that's correct.

00:28:40:05 - 00:29:23:05

Unknown

There are no such business claims. Okay. Thank you. So does anyone else wish to make any comment on this item on funding? Okay, thank you. I'll move on to the next item before we close. Hopefully the applicant is being kept in the list of action points which we can run through if anyone believes we've missed out something, then please let us know after those have been presented by the applicant.

00:29:23:07 - 00:30:01:10

Unknown

Yes, action points from this hearing. So there are nine we think first provide details of notification of landowners that may be subject to temporary possession powers. In Article 30, one of the DCI concept hung out from this morning. Good right. That number two, check for no statements in the environmental statement or other documents that it doesn't indicate there is no BMV land within the order limits, no absolute statements to that effect.

00:30:01:13 - 00:30:49:02

Unknown

Thirdly, respond to the relevant representation by EDF Renewables Ltd in respect of engagement, and we'll also set out our position in respect of that role and whether this natural undertake or not. Fourthly, ducting on to the railway provide details and confirmation in respect

of the fact that both options, the existing ducts and the if needed new ducts by drilling are within the land and right sought to be acquired.

00:30:49:04 - 00:31:02:07

Unknown

Firstly, the mining code, whether that Article Article three is necessary.

00:31:02:10 - 00:31:39:14

Unknown

Six Question about Crown land and the fact that we're an environment agency hold land on behalf of the relevant Secretaries of State. Query whether that means therefore within the definition of that land falls within definition of crown land. Seven If consent is not obtained from any relevant secretaries of State, how does that affect the application? Any contingency plans aspect of the land required?

00:31:39:16 - 00:32:20:24

Unknown

Eight. Respect the funding statement. Provide further information about corporate structures, financial standing to satisfy the relevant tests, and finally to provide further information in terms of the project cost estimate having regard to factors such as inflation. Any other matters such as technology changes those nine matters.

00:32:20:26 - 00:32:31:10

Unknown

Thank you. Everybody happy with that action list?

00:32:31:13 - 00:32:58:13

Unknown

Can I no wish to close this meeting? Thanks for attending this hearing and a contribution. Next hearing is scheduled for tomorrow morning at 10 a.m. Issue specific hearing on transport and construction matters. See you then if you are attending. Thank you again. You keep.