



Trawsgrifiad Gwrandawriad

Prosiect:	Fferm Wynt Alltraeth Mona
Grandawriad:	Gwrandawriad Caffael Gorfodol 1 (CAH1) – Rhan 1
Dyddiad:	17 Hydref 2024

Sylwer: Bwriad y ddogfen hon yw i gynorthwyo Partion â Buddiant, nid yw'n air am air.

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Hearing Transcript

Project:	Mona Offshore Wind Farm
Hearing:	Compulsory Acquisition Hearing 1 (CAH1) – Part 1
Date:	17 October 2024

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Mona CAH1_17 OCT_PT1

Created on: 2024-10-17 07:29:36

Project Length: 01:22:35

File Name: Mona CAH1_17 OCT_PT1

File Length: 01:22:35

FULL TRANSCRIPT (with timecode)

00:00:05:05 - 00:00:23:21

Okay good morning everyone. So it's now 930 and it's time for this hearing to begin. Can I just confirm that everybody can hear me clearly in the room? It's great. If I could just ask that everybody sets their phones in devices to silent, please as well.

00:00:25:08 - 00:00:54:05

I'd like to welcome everybody here today to this compulsory acquisition hearing, which is compulsory compulsory acquisition hearing one in relation to the application made by Mona Offshore Wind Farm Limited, who we will refer to the applicant for an order granting development consent for the Mona offshore wind farm. My name is Caroline Jones. I'm a charter town planner and a planning inspector, and I have been appointed by the Secretary of State to be the lead member of this panel. I will just ask my colleagues to introduce themselves.

00:00:55:12 - 00:01:06:21

Good morning. Barada. My name is Julie de Courcy and I'm a chartered. Town planner with a predominantly appellate background, including major energy and transmission infrastructure.

00:01:07:23 - 00:01:15:17

Good morning and border. My name is Graham Hobbins. I'm a chartered civil engineer with a background in major energy and rail infrastructure.

00:01:17:08 - 00:01:33:08

So together we constitute the examining authority. You will notice that two members of our panel aren't present here today. That is because they are preparing for next week's hearings. But they will either be watching on the live stream or they will watch the recording after the event is finished.

00:01:35:22 - 00:02:00:13

The hearing today will be following the agenda that was published on the National Infrastructure Planning website on the 4th of October. It'd be helpful if you had a copy of that in front of you. It is for guidance only and we may add other considerations or issues as we progress. I'm just going to pause the hearing for one second, because I can see there is a potentially an issue with the audio. Are we okay to continue? Great. Thank you.

00:02:04:16 - 00:02:39:16

If we can't conclude the discussion today, it might be necessary for us to prioritize matters and defer other matters to further written questions. Likewise, if you cannot answer any of the questions being

asked or require more time, then please indicate that you need to respond in writing. Today is a blended event, and that comprises an in-person meeting as well as being held on the Microsoft Teams platform. It is being both live streamed and recorded. For those people who are observing or participating through teams, could I just ask that you stay muted throughout the meeting just in order to minimize background noise? If you do wish to speak.

00:02:39:18 - 00:02:55:07

Just use the hands up function or turn your camera on so that we can see that you want to come in. For anybody watching on the live stream. I'll just remind you that when we do adjourn proceedings at any point today, you will have to refresh your browser page to watch the resumed hearing.

00:02:57:08 - 00:03:14:13

A recording of today's hearing will be made available on the moon at Offshore Wind Farm section of the National Infrastructure Planning website, as soon as practicable after this hearing is finished. With this in mind, could you just ask that you all speak clearly and speak your name and who you're representing every time you speak today?

00:03:16:00 - 00:03:50:11

A link to our privacy notice was published in our rule six letter. We do assume that everybody here has familiarized themselves with that, so I don't intend to repeat that. All of our personal data of our customers is handled in accordance with the principles set out in data protection laws. As this event is recorded and published, it's important that you don't add information to the public record that you would wish to be kept private or that is confidential. Please speak to Mr. Stevens if you have any questions on that. We will look to take a break mid morning and a break at lunch and probably this afternoon.

00:03:50:13 - 00:04:03:14

We are aiming to finish no later than five today. day. This hearing has been scheduled for a day and a half, but there is the possibility that we may finish today, and therefore we will close the hearing today if we manage to get through everything on the agenda.

00:04:05:19 - 00:04:20:29

I'll just deal with a few preliminary matters for those attending in person. I've not been made aware of any fire alarm tests or drills today, so in the event of a fire alarm, please exit via the fire exit at the rear of the room or behind us. And the meeting point is on the promenade.

00:04:22:24 - 00:04:26:09

Do we have anybody here present from the press today?

00:04:28:15 - 00:04:29:00

Nope.

00:04:32:13 - 00:04:46:15

So turning to language, we do have translation facilities available for this hearing. Mr. Stevens, the case manager who is here today, can speak Welsh. The rest of us will do our absolute best. But please do feel free to correct us if we get anything wrong.

00:04:48:03 - 00:04:55:26

We do welcome contributions in both Welsh and English. With that in mind, do we have anybody here today who would like to address us in Welsh?

00:04:57:22 - 00:05:01:09

I'm not seeing any hands or online. Thank you.

00:05:04:09 - 00:05:37:21

I'm now going to go around the room first and ask those of you who are participating to introduce yourselves in the interest of expediency, if any party or organisation has any more than two people. Could I just ask that you just introduce your main representatives, and then you can introduce further people at the relevant points in the agenda. If I could just start with the applicant, please. Good morning Barada. My name is Liz Dunn. I'm a partner at Burgess Salmon and I am representing the applicant, Mona Offshore Wind Limited today.

00:05:37:23 - 00:05:59:03

To my left is Thomas Griffin Beal from Tetra Tech. He will be running the, um, the projections. So if people want documents, um, put up if you could give us the, uh, examination library reference. Uh, Mr. Griffin, Bill will pull those documents off, and I'll let others introduce themselves as they speak.

00:05:59:10 - 00:06:00:16

That's fine. Good morning.

00:06:05:03 - 00:06:07:10

Do we have Mr. Parry?

00:06:10:16 - 00:06:12:24

Yes, yes. Do come and sit at the table.

00:06:28:20 - 00:06:42:15

Um, Griffith Parry from Brown Rural Partnership. Um, I'm representing, um, the objectors to the impact of this application. Uh, on plots 06102 to 06105.

00:06:45:03 - 00:06:46:26

Thank you, Mr. Parry, and welcome.

00:06:48:17 - 00:06:54:07

I I don't think we have anybody else in the room today who wishes to speak. Is that correct?

00:06:55:28 - 00:07:05:20

Okay. In that case, I'll move to those people who I have online. Um, is Miss James with us online?

00:07:09:29 - 00:07:16:22

Nope. Doesn't appear to be here. Um, do we have Ella Jones?

00:07:19:22 - 00:07:20:25

Yes. I'm here.

00:07:23:00 - 00:07:26:27

Could you just introduce yourself and let us know who you're representing, Miss Jones?

00:07:27:07 - 00:07:33:17

Yes. I am Ellie Jones from Forresters, representing the estate of Sir William Wind.

00:07:37:15 - 00:07:39:26

Thank you. Do we have Mr. Spittle?

00:07:42:08 - 00:07:46:16

The Morning Star Hospital from Katrina is also representing the Williams Windsor estate.

00:07:47:27 - 00:07:48:16

Thank you.

00:07:50:13 - 00:07:51:25

Do we have Miss Tebbit?

00:07:56:21 - 00:08:02:03

Hello? Yes. Um, also supporting the, um, executors of the Williams estate.

00:08:04:17 - 00:08:06:00

And Miss Wakeman.

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

Hello. Good morning. Yes, I am, I'm partner with Carter Jones representing the estate. Um, and I'll be talking on their behalf today.

00:08:20:09 - 00:08:24:25

Thank you. Um, do we have Miss Griffiths with us?

00:08:28:24 - 00:08:42:20

Yes. Uh, Susie Griffiths from J. Bradburn Price and Co, uh, representing G Lloyd Evans and son in relation on their behalf in relation to an objection to the proposals.

00:08:44:09 - 00:08:49:01

Okay. Thank you. Good morning to you all. Is there anybody that I have missed off?

00:08:55:11 - 00:08:56:20

Now. Okay then.

00:09:00:09 - 00:09:05:02

Are there any other comments anybody wishes to raise under this item before we move on?

00:09:08:00 - 00:09:13:08

Okay. In that case that concludes the introductions and I'll hand over to Mr. Corsi.

00:09:14:11 - 00:09:57:00

Thank you, Miss Jones. I'll just briefly explain the purpose of today's hearing. The application for the proposed development includes a request for an order granting development consent to authorize compulsory acquisition of an interest in or right over land, and or temporary possession of the same. The purpose of this compulsory acquisition hearing is for the examining authority to examine the applicant's case for compulsory acquisition and temporary possession, and to invite affected parties and the applicant to make oral representations about those matters.

00:09:58:03 - 00:10:30:24

The hearing will help us to consider whether relevant legal and policy tests applicable to compulsory acquisition and temporary possession proposals have been met. Those are solely set out in the Planning Act 2008, and the Department for Communities and Local Government Planning Act 2008. Guidance related to procedures for the compulsory acquisition of land. As it is, only those legal and policy tests that we're considering at this hearing.

00:10:31:05 - 00:11:10:01

We won't be taking evidence on the proposed developments, impacts on amenity such as the potential effects of noise, dust, vibration, landscape impact, concerns about electromagnetic fields, etc. and or any associated mitigation or management measures. Those are for issues specific here. Excuse me. Or to, um, continue the exchange of written evidence. Also, as the Secretary of State has no jurisdiction over methods of assessing compensation or indeed the sums involved.

00:11:11:04 - 00:11:44:22

And on that basis, those are issues that are outwith the examining authority's remit. They're wholly a matter for the affected parties on the applicant. And we they will not be discussed today given that we have no jurisdiction over them. Throughout the hearing, we may be referring to several key documents which you may wish to have easy access to. I'll briefly run through them. There's the book of reference. That's rep 3006. The Statement of Reasons Rep 3004.

00:11:45:15 - 00:12:20:05

The Draft Development Consent Order Rep 2004. The land plans onshore Rep 1004. The Crown land plan on shore as 006. The Land Rights Tracker rep 3083. And finally, the funding statement, which is app zero 25. Does anyone have any questions about the purpose of today's hearing?

00:12:22:26 - 00:12:41:06

I don't see any show in the room or any hands raised online, so thank you. On that basis, I'll move on to agenda item three, which is the applicant's case for compulsory acquisition and temporary possession.

00:12:42:27 - 00:13:22:25

Note the issue of the necessity and proportionality of the compulsory acquisition rights and perpetuity sought by the applicant is one that will be considered under this topic, as it is a matter that several of the apps have flagged up for consideration, and I think it would be a better use of hearing time to hear associated submissions on that point in a round table agenda item, rather than individual affected parties making submissions one by one under agenda item five, and possibly then feeling a bit miffed if the applicant were to say I refer you to my my previous answer.

00:13:22:27 - 00:14:03:06

So I think it's it's it's a more judicious use of our time today. I'd really appreciate on that basis if the applicant and the affected parties could hold off on that issue for present. um, as that would assist the smooth running of the proceedings. It would be useful to have the applicant briefly present and justify its case for compulsory acquisition and temporary possession. And in doing so, it would be helpful if it could include the following as set out on the agenda, and that is identification of the powers sought and their purposes.

00:14:03:26 - 00:14:31:24

Relevant draft development consent order thus be referred to as the draft DCO provisions are the relevant statutory and policy tests under the Planning Act 2008, and that would include sections one, two, two, one, two, three, one two, seven, one, three two and one, three eight, and the Department for Communities and Local Government guidance related to compulsory acquisition would be met.

00:14:33:17 - 00:15:18:03

Also the applicants strategy or criteria for determining whether to seek powers for compulsory acquisition of land, compulsory acquisition of rights, or temporary possession of land. Consideration of alternatives to compulsory acquisition and temporary possession and that consideration, sorry, the alternatives to the use of those powers rather than at this stage. Site specific alternatives that Arps may wish to discuss in respect of elements of the proposed development that might affect their land, and certainly last but not least, human rights considerations.

00:15:20:02 - 00:15:33:01

So I'll get the ask the applicant to do that in one minute, but is noted on the agenda for this hearing. Site specific submissions will be reserved for agenda items four and five.

00:15:35:00 - 00:15:43:16

Um, so at that juncture, I'll ask the applicant to assist with the matters that I've just outlined. Thank you.

00:15:45:04 - 00:16:50:05

Thank you. Madam Li's done on behalf of the applicant. Um, I will give an overview of each of the points that have been raised in respect of the agenda. They may not follow exactly the order that is set out. Just in terms of there's there's quite a lot of repetition between the points. So, um, I will cover all of the points, but they may not be in the order in which they're in the agenda. And if there is anything that you feel we don't cover in sufficient detail, we can obviously come back to that and ask questions. Um, so in respect of the the first point, which is identification of the powers sought and their purposes, um, the Moana offshore wind farm order, um, which as we've identified is Rep 20046 powers to compulsorily acquire both land and rights, and that is both temporary and permanent, and

new and existing rights that are required to carry out or to facilitate or are incidental to the construction, operation, maintenance and decommissioning of the authorized development as defined in the order.

00:16:50:23 - 00:17:11:19

Every parcel of land that is affected by the potential compulsory acquisition of land or rights in land is identified on a plot by plot basis in the Book of reference, which is Rep 003, and on the land plans, which is Rep 1004, and a unique number has been ascribed to each plot.

00:17:13:09 - 00:17:55:13

The plots are shown on the land plans and the um, details of interests in land and the purpose for which the land or rights is required is set out in the book of reference, so that provides an overview of all of the plots of land, all the land that is affected, um, and the rights that are being sought. And within the book of reference, uh, it identifies whether the applicant is seeking the power to acquire that plot outright. So freehold acquisition, sorry, or the power to create or acquire permanent rights predominantly over the cable corridor, including where they interfere with existing rights, um, or the power to create and or acquire temporary rights to possession and use.

00:17:55:14 - 00:18:27:00

So that's just an overview of the approach the applicant's taken. If I move to the relevant draft development consent order provisions, those are set out in part five of the Development Consent order. Um, and it's worth saying from the outset that the applicant is seeking to acquire the land and rights it needs voluntarily, those, um, that is ongoing. Uh, and mistaken from, uh, McLaren. The land agents appointed by the applicant will provide further detail on that.

00:18:27:11 - 00:19:01:29

Um, But in order to ensure that the development is deliverable, compulsory acquisition powers have been included and are necessary in the event that those rights cannot be secured voluntarily. So, going back to the Draft Development Consent Order, article 20 deals with compulsory acquisition of land that authorizes the undertaker here. That's Moana Offshore Wind Limited to acquire so much of the order land as is required to carry out, facilitate, or is incidental to the authorized project.

00:19:02:01 - 00:19:40:13

And just to note there, the definition of authorized project includes both the authorized development, which is the scheduled works within the Draft Development Consent Order, plus the ancillary works that are identified. There is a continuing obligation through the exercise of those powers, if ultimately, they're needed to only take land or rights that are needed to carry out or to facilitate the development. So that is an ongoing obligation on the applicant at the point at which those powers are exercised to only take so much of the land as is required for the project, or to carry out or facilitate it.

00:19:41:00 - 00:20:15:20

And that wording follows section 1 to 2 of the Planning Act in terms of what land may be acquired for, and that sets out that the land must be required for the development to which the development consent relates, is required to facilitate, or is incidental to that development, or is replacement land. And just to point out, there is no replacement land being proposed for this order, and therefore paragraph C does not apply here. Um, the only order land where compulsory acquisition is sought.

00:20:15:22 - 00:20:47:27

So the actual freehold acquisition of that land are the plots around the substation. So that is in relation to the substation itself, the new permanent access to the substation, or where that land is required for necessary landscaping and or ecological mitigation. Compulsory acquisition is required for those plots. Um, as the applicant requires exclusive possession of them and control of the land, and the proposed development would involve a material change of use from that currently.

00:20:47:29 - 00:21:24:15

So it isn't a situation where the, the, um, the existing landowner could, uh, could continue to, um, to occupy and use that land. Uh, going on to article 21, uh, that sets a time limit of seven years from the date on which the order is made for any compulsory acquisition to be sought. Uh, that would be either through the method of a notice to treat or a general vesting declaration, um, that follows precedent in terms of the timing, and it prevents rights existing for an unreasonable period of time.

00:21:25:01 - 00:21:58:22

Um. Paragraph two clarifies that this time frame does not end the period for temporary possession of land. If that possession was taken within the seven year period, and the seven year period aligns with the seven year period for implementation of the um Development Consent Order, which is sought, and I think its requirement to article 22 deals with compulsory acquisition of rights. Um, and it authorizes the undertaker to acquire or create new rights or impose restrictive covenants on land.

00:21:58:24 - 00:22:39:04

And this is how the necessary rights and restrictions over the cable corridor and the installed cables will be secured. Uh, it, uh, prescribes schedule eight of the Draft Development Consent Order also prescribes land in which only new rights may be required, acquired, sorry, and the purpose of those rights by reference to specific plots. Um, as I said, the majority of the plots where rights only are being sought and restrictions is in respect of the cables, but it also includes those areas where, um, ecological mitigation works are required and for access to those works.

00:22:41:00 - 00:23:15:03

Um article 22 also includes provisions relating to statutory undertakers, um, where a right is being exercised by the undertaker to relocate statutory undertaker equipment, and there is an ability for the undertaker Mona here to transfer those powers. Article 23 deals with compulsory acquisition of land and minerals, and incorporates part of the Acquisition of Land Act to address how mines and minerals are to be dealt with under the Development Consent Order and the process if they are to be acquired.

00:23:15:05 - 00:23:51:14

I don't think we've had any questions around that, so I won't go into that in a more detail Article 24 deals with private rights. Um and um both. Paragraph one deals with private rights where there is acquisition of land, and paragraph two where acquisition of rights and restrictions. And that just confirms that if there are any existing private rights or covenants over the border land that are inconsistent with the right that the undertaker or homeowner is seeking to acquire, that those rights or restrictions will seek to have ceased to have effect.

00:23:51:25 - 00:24:23:21

Um, it also applies to any land over which temporary possession is taken, for so long as the undertaker is in possession of that land. So it prevents a situation where there is a private. Right. Um, which then could, could, uh, could undermine or prevent the delivery of the development. Um, paragraph four provides for compensation in the event that rights or covenants are extinguished And statutory under in. Sorry. Statutory undertaken interests are excluded.

00:24:24:18 - 00:25:03:06

Uh, article 25 is the application of the uh Acquisition of Land Act and that um, incorporates relevant procedures. Again I won't go into those in case unless there are any questions. Article 26, um, allows the acquisition of subsoil rights only. So it doesn't require the, uh, the undertaker to, uh, take more right than it needs to actually have to take the whole right where it's only a subsoil interest. Um, that's required. Article 27, um, provides modifications to the, um Compulsory Purchase Act 1965, which deals with inconsistent provisions.

00:25:03:11 - 00:25:39:10

Article 28 deals with rights under Overstreet um, and provides a power for the undertaker to enter an appropriate rights over any street within the order limits, and to use the subsoil and airspace. And paragraph four provides for compensation where there would not otherwise be an entitlement, as no land or interest is being taken. Uh, article 29 um is an important article for the purpose of this order, which is um, provides for the temporary use of land for the carrying out of the authorised project.

00:25:40:03 - 00:26:11:18

Um, this article provides the powers for Moana as the undertaker to enter the order land and to use that land for various purposes, including the construction of the development, which would be all elements of the project prior to taking an interest in that land. Um, this is an important provision within this order because it's it's fundamental to the approach that the project is taking in terms of securing necessary rights over land.

00:26:12:03 - 00:26:45:26

Um, this temporary possession An article means that the applicant can go in onto the land and it can install its infrastructure, and then it only needs to take the rights and restrictions over the area where the infrastructure has been has been located, rather than having to take a much wider area of land, um, and, and exercise its rights over that area of land before the, the infrastructure has actually been installed and the applicant knows where that is.

00:26:45:28 - 00:27:20:25

So it ensures that when the permanent rights are taken, they are over a reduced area than would otherwise have been possible. Uh, if if the applicant had been required or the undertaker had been required to exercise those powers beforehand, there will always be some, some, um, in terms of construction, there will always be points where, um, there needs to be some flexibility in where in terms of where infrastructure is located. And this ensures that, as I say, rather than having to build that flexibility into the securing of the rights.

00:27:21:06 - 00:27:34:19

It can be done after effectively after the works have been installed. It's also this approach is also preceded for a number of for most, if not all offshore wind farm projects in terms of cable infrastructure.

00:27:36:17 - 00:28:13:25

Um, paragraph one, uh, in this article sets out that the undertaker can enter and take possession of land, um, within column one of schedule seven. So it's very, um, the the development consent order and schedule seven also sets out those plots of land where temporary acquisition is needed. And there is a specific purpose where it's just temporary acquisition for the purposes set out in that schedule. Um, and, um, in addition, so that there are plots where temporary possession only is sort which the plots that are required for construction only.

00:28:14:12 - 00:28:50:10

Um, and then um, in respect of the majority of the all the order land, um, there are temporary possession powers over all of that land, as I've explained. So that so that, um, only the, only the rights over the installed infrastructure are needed at that later stage. Um, paragraphs um B to G set out the activities that may take place on land subject to 20 to temporary possession. Uh, paragraph two requires the undertaker to give at least 28 days notice of temporary possession before it does that before it enters land.

00:28:50:20 - 00:29:21:23

It is a minimum period, and it's a standard notice period for entry under for temporary possession, and was included in recent development consent orders, including the Sheringham and Sheringham and Dudgeon Extension Order. Paragraph three provides a time limit for temporary possession. Uh, so. So once the works have been completed, where there will be permanent rights, um, sort. It's a year following completion of the relevant work, which again, is a is a time period that, um, is a standard time period.

00:29:22:01 - 00:29:56:26

Um, uh, under under a number of other orders. Um, paragraph four also ensures that where, where land is required for, for temporary possession only, that any temporary works are removed. Um and um paragraph five provides a right of compensation where damage is caused to land, and. Paragraph six. Provisions for dispute in relation to compensation. Uh paragraph eight um provides clarity regarding the acquisition of land.

00:29:57:02 - 00:30:13:19

Um, and uh, where there is compulsory acquisition of rights only in that refers to schedule seven and paragraph nine, that where temporary possession is taken, There is no requirement to acquire an interest or acquire land or the interest. Um.

00:30:16:09 - 00:30:50:16

Paragraph ten incorporates provisions from the Compulsory Purchase Act and paragraph 11 further clarity that the temporary possession powers are limited to those um for acquisition of land or rights. In terms of article 30. There is a there is an equivalent provision for the temporary use of land for maintaining the authorised project. So allows the undertaker to go back onto that land if needed, um,

in order to undertake maintenance and a requirement for 28 days notice. Um, there uh, there are article 31 relates to statutory undertakers.

00:30:50:18 - 00:31:33:21

Article 32, uh, allows um anyone whose connection is removed to um, seek compensation. Article 33 relates to funding. Um, and obviously it's an important consideration that the Secretary of State is satisfied that there is sufficient funding in place to meet any liability for compensation under the order. The wording of that article, um, provides that, um, unless the Secretary of State confirms in writing that this isn't required, there would be a guarantee or alternative security put in place for any compensation claims, uh, which could either be a company guarantee or other security.

00:31:34:03 - 00:32:07:02

Um, there is additional wording provided or included in this article, um, that, uh, that has just been preceded through the Sheringham Shoal and such an extension order, um, which is that the Secretary of State can confirm that it considers the company, uh, undertaking the work so the undertaker has sufficient standing that actually that, um, that guarantee or financial security is not required. But that's a matter for the Secretary of State to determine the circumstances in which that would be appropriate.

00:32:08:18 - 00:32:39:18

Uh, so those are the main articles within the DCO. There are also, um, schedules which relate to those which are all cross-referenced. Uh, schedule seven, uh, includes land over which only temporary possession may be taken. Uh, as I've said, that relates to article 29 and identifies those relevant plots which are where temporary possession only is required. Uh, schedule eight identifies land in which only new rights may be acquired.

00:32:39:20 - 00:33:14:29

That relates to article 22. Um, and, uh, that specifically sets out in respect of each of those, uh, those rights. The, the type of right that is required for the, for the, uh, that the type of right that is required to in order that the applicant has the necessary ability to maintain or control those. Right? So rather than having a single right that applied to everything across the whole of the project, the applicant has, um, created what, what we call a menu of rights.

00:33:15:01 - 00:33:49:08

So there are different rights that apply to different plots depending on the type of works that are being carried out there. And they have been tailored specifically to those, uh, to those plots so that there aren't they aren't burdened unnecessarily with rights that aren't relevant to the works that are taking place. Those are all set out in table two of the book of reference. But for example, there are there is a cable rights and restrictive covenants package. There is a different package of rights where cables are going under existing infrastructure.

00:33:49:10 - 00:34:23:03

So where there is a commitment to, um, to use trenching methods to go under existing infrastructure, for example roads or railways, it's a slightly different package of rights Because the applicant is not seeking to control the surface of the of the land in the same way. So there are cable corridor access rights so that where all that's needed by the act, by the applicant is access to the cable corridor. So it

doesn't need any rights because there aren't any cables installed there. There is a specific right in respect of cable corridor access.

00:34:23:18 - 00:35:03:20

Uh, similarly, where the applicant has identified um areas for hedgerow enhancement, there are specific rights that the applicant will have in order to access that land to maintain those enhancements. But it doesn't go beyond that in terms of sterilizing or restricting what the landowner can do going forward. There are rights in respect of landscaping and ecological mitigation works, and then there are some very specific rights in respect of the national grid connection, uh, rights in terms of the areas around the substation, um, and access rights in respect of that, where the shared use will be over the National Grid substation.

00:35:03:22 - 00:35:28:18

So the applicant, through all of this, has sought to really tailor the rights it needs over, over the land that is within the order to ensure that those that those plots are not unnecessarily burdened with rights that don't relate to the works that will have taken place, and don't restrict the landowners ongoing use of that land more than is actually necessary.

00:35:31:20 - 00:36:10:02

Could I interrupt your flow one minute rather than wait to the end? Um, it's really just to reiterate a question that that was asked at XQ one and that you helpfully did answer, and that it was, um, 1.6.11. It was the where it was said that temporary possession powers apply to all the order land and then sorry to to um, take across a planning terminology that was almost a sequential test applied that if temporary possession could be relied on.

00:36:10:08 - 00:36:20:11

Um, my understanding of the answer was then that that, um, compulsory acquisition of rights might not necessarily be brought into play.

00:36:22:16 - 00:36:26:12

But you're looking rather quizzical, as if my memory has failed me.

00:36:26:21 - 00:37:01:18

Is done on behalf of the applicant. Um, so the approach to, um, there is temporary possession across the whole of the order. The order? Uh, all of the order land. Um, there are certain, as I said, there are certain parcels which are identified in yellow on the land plans, which are temporary possession only. So they are where? Um, the applicant only requires rights for construction. There won't be any permanent infrastructure located, and there's no permanent need for access over those areas, so they are temporary possession areas.

00:37:01:25 - 00:37:34:27

Only once temporary possession has ceased, they will be returned to the landowner. And they'll be they will. There are no permanent rights being sought over those in respect of plots where there that are coloured blue on the plans, they have, uh, both temporary possession because the whole of the order land has temporary possession, but they also have will be subject to permanent rights. Um, it isn't the applicant's case that on the blue land, temporary possession may be sufficient.

00:37:34:29 - 00:37:47:07

What what will happen, though, is that, um, as I said at the start, the the rights that are taken over those blue plots may well

00:37:49:04 - 00:38:25:03

will definitely not. Um, uh, actually not will. definitely may well not cover the whole extent of those blue plots. And this is the point around being able to exercise temporary possession powers over those blue plots to install the infrastructure, and then only take rights over the the location where the infrastructure is, is, is actually installed, which will mean that some of those, some of the areas of those blue plots will be returned to the landowner because they're not necessary.

00:38:25:05 - 00:38:58:09

So good examples there. I've got an example, but where where the cable corridors needed to be extended, for example to accommodate tarantulas crossings. So, so the, the standard, the standard sort of cable width, um, for construction has had to be extended because of, of the need for horizontal, um, sorry for trench crossings, um, where you need to accommodate a, um, a compound. Um, and the angle of the um, of the drill is, is not known at this stage.

00:38:58:27 - 00:39:44:29

Temporary possession is likely to be taken over the whole of that land when the cables are then installed. There will be a permanent easement over the location of the cables, plus a buffer area plus. However, that is then set out so there will be less land permanently taken. And the reason, as I said at the start, the reason for doing it this way is because otherwise, if the applicant was exercising the compulsory acquisition powers, it would have needed to take permanent rights over the whole of that area in order to have the necessary flexibility to deliver the project, and then would have found itself with land that it didn't need, was then having to hand back to the landowner and having a greater impact.

00:39:45:12 - 00:39:48:05

Does that explain this? Explain the position.

00:39:48:07 - 00:40:16:26

Miss Dylan, thank you. And I do apologise for interrupting you. It was just something that I find quite difficult to get to grips with. Um, when I was having the initial look at the proposal, and I thought that it was maybe just worth teasing. Not out. Um, maybe affected parties didn't have the have the same problem with, uh, comprehension with the the overlay of the the yellow and the blue, but I thought it was worth just, um, just reinforcing. So. Thank you.

00:40:18:03 - 00:40:50:11

That's absolutely fine. Um, so going back to the DCO, um, uh, schedule nine deals with, um, uh, modification of compensation and compulsory purchase enactments. I'd be glad I won't go through that one. And schedule ten sets out protective provisions for various, um, interested parties and undertakers. And we have a section on protective provisions. So, again, I'm not going to go through that, that, that now, um, in terms of how the applicant has met the relevant statutory and policy tests.

00:40:50:15 - 00:41:24:01

Um, the applicant has had due regard to those tests and grateful for confirmation, um, from yourselves that the the guidance we're looking at is the Department for communities and local guidance from um, sorry, Department for Communities and Local government guidance from September 20th, 2013. I understand there is an indication that's going to be updated, but autumn 24 was the date, but nothing's been seen so far. So for the purposes of our discussions today, it is that guidance that we're discussing.

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Um, as we've mentioned, that guiding principle for the applicant has been to minimise the extent of its interference with the interests of others. And I think I've explained why that's the case. Um, the starting point has been to identify those works that would give rise to a or give rise to a permanent change of use. Um, and And then to kind of, um, understand the or to reflect the need for when permanent rights would be, would be needed, um, where there are overlapping works areas.

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And this probably comes back to your point, the acquisition type with the highest level of permanence is taken as the overriding right, because that needs to be the way that the that the order is structured. Um.

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So.

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And again, just, um, kind of coming back to that, to that point and another example. So the order land has a approximately where there aren't trenches, crossings, a 74 metre approximately cable corridor width. That's the construction. Uh, that's the construction width generally for the corridor, um, and post construction, um, it's sort of indicative likely separation will be that there's a 30 meter standard easement taken over that.

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So you can see you have a 74 meter cable corridor, which is needed for construction, which then reduces down. And again, this is generalities. So don't take it for every single plot because there are, there are uh, there will be differences, but that, that generally would reduce down to a 30 meter standard corridor.

00:43:08:09 - 00:43:08:24

Um,

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so in terms of those, um, statutory tests, um, section 1 to 2, I think we've talked about, which is that, um, the order can include provisions authorizing compulsory acquisition if the tests have been met. Uh, and we've talked about paragraph two, which is that the land is required for the development or is required to facilitate or is incidental to that development. And then the other part of section 122 is the compelling case in the public interest, and that is a matter for the Secretary of State ultimately to determine that point.

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Um, section one, two, three, uh requires that uh or states that an order may include provision authorizing the compulsory acquisition of land. If the Secretary of State is satisfied that one of the conditions apply and hear the relevant condition, as you've highlighted, is that the applicant made a request for compulsory acquisition within the order so that that is then met. Um, those tests are then, um, supplemented by the sort of general considerations that set out or set out in the um Department for Communities and Local Government guidance.

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Um, and they are the matters to which yourselves and the Secretary of State must have regard in deciding whether to include those provisions authorizing the compulsory acquisition of land. Uh, those are that impact. And this is set out in paragraph eight, that all reasonable alternatives to compulsory acquisition, including modifications to the scheme, have been explored, and there is a need for the applicant to demonstrate that the proposed interference with the rights, with those of an interest in land is for a legitimate purpose, and is necessary and proportionate.

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Under paragraph nine, the applicant must have a clear idea of how they intend to use the land which it proposes to acquire, and that there is a reasonable prospect of the funds needed to deliver the scheme being available. And paragraph ten is a reminder that ultimately, the Secretary of State must be persuaded that the purposes for which an order authorizing compulsory acquisition of land, that those purposes are legitimate and that they are sufficient to justify the interference with the human rights of those with an interest in the land.

00:45:30:17 - 00:46:02:21

With regard to article one of the European Convention in Human Rights, um, we're not on an article eight here because there's no acquisition of dwellings. So the focus for the Secretary of State will be on article one. Um. The applicant considers that that condition in section 1 to 2 is met in that it has made a clear case that all of the order land identified is either required for the project or is required to facilitate, or is incidental to the project.

00:46:03:10 - 00:46:35:21

Uh, it is worth just reflecting on what required means for the purposes of these tests, and there have been discussion around that and in some of the representations. And the position is that it is necessary in the circumstances of the case. It doesn't have to be indispensable, but it is needed to deliver the scheme proposed. So that meaning of the word required was considered by the Court of Appeal in a case called Sharkey um uh, which went, as I say, to the Court of Appeal.

00:46:35:23 - 00:47:14:15

The reference there is the case. Reference is 1992 £0.63 and CR 332, and this was in the context of Town and Country Planning Act. So not not, uh, not specifically to the exercise of powers under the Planning Act, but it is relevant. And there the Court of Appeal stated for the purpose this was a local authority compulsory acquisition. So slightly different circumstances, as I say, but that the local authority does not have to go so far as to show that the compulsory purchase is indispensable to the carrying out of the activity or the achieving of the purpose.

00:47:14:17 - 00:48:08:15

Or to use another similar expression, that it is essential. I believe the word required here means necessary in the circumstances of the case, and in that in then going back to the um Department of Communities and Local Government guidance, paragraph 11 says in respect of that, that point around whether compulsory acquisition is justified. That for that test to be met, the promoter should be able to demonstrate to the satisfaction of the decision maker that the land in question is needed for the development for which the consent is sought, and the decision maker should be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development, and the applicant's case is that all of the land and all of the plots identified are reasonably required for the purposes of this development.

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Uh, there is some useful, um, guidance given again in paragraph 11, uh, in terms of the acquisition of land for, for example, the purposes of landscaping a project. And there the guidance says so paragraph 11 of the Department for Communities and Local Government Guidance, that the Secretary of State would need to be satisfied that the development could only be landscaped to a satisfactory standard if the land in question were to be compulsorily acquired and the land taken is is no more than is reasonably necessary for that purpose and is proportionate.

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So there is clearly a reasonableness, uh, taken to be a provision there. Um, but it isn't, it isn't, um, it isn't the, the burden isn't on or the onus isn't on the applicant to be able to, um, to say this, this couldn't be done, um, without to, to make a case to say that, um, it's, it is, um, completely necessary.

00:49:13:14 - 00:49:44:18

It is reasonably necessary in the position of the applicant. But there are also provisions in the revised national policy statements. Um, and in particular, I draw your attention to paragraph 2.6.5 and 2.6.6 of National Policy Statement N5, which is the one that relates to electricity Networks, which recognises that compulsory acquisition of land may be needed for onshore electrical infrastructure such as new substations, and for associated mitigation effects such as for landscaping.

00:49:45:00 - 00:50:25:12

That also notes that for linear projects, there may well be the need for compulsory acquisition of of rights in respect of those those projects. Um, just going back to the legal tests, section one two, two. Uh, paragraph three, um, requires the Secretary of State to be satisfied that there is a compelling case in the public interest. Um, and paragraph 13 of the Dclg guidance says that in those circumstances, the Secretary of State needs to be persuaded that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss.

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It then goes on to say that Parliament will always has always taken the view that land should only be taken where there's clear evidence that the public benefit will outweigh the private loss.

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In terms of that compelling case in the public interest, it is for the Secretary of State ultimately to determine that. But the Mona, the, the, the position of the applicant is that the public benefit of this

project is very clear and compelling. The scheme is supported by a cascade of international and national obligations that combined to place the UK on a path to reduce carbon dioxide emissions and create safe, affordable, reliable energy. With a strong focus on UK generation and security of supply through the Climate Change Act, the UK government is committed to reducing greenhouse gas emissions by 100% of 1990 levels by 2050, and the UK government has made it clear that offshore wind plays a key role in achieving that net zero and decarbonisation target, with 30GW by 2030, having been increased to 50GW in 2022.

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So the government, looking for 15MW of offshore wind, and Mona will make an important contribution to meeting those targets. In overall terms, Moana would meet approximately 35% of Wales domestic electricity consumption per annum and therefore making a really significant contribution towards Wales target of 100% renewables by 2050.

00:52:03:07 - 00:52:53:09

It's clear that there is a, um, there is a need for this project and that need is urgent. Um. At Cop 28, held in Dubai in November 2023, um, a pledge was issued um a the United Nations Framework Convention on Climate Change, uh, issued the Global Renewables Energy Efficiency pledge, and that pledge stipulates which the UK is a signatory to. That the signatories commit to working together to triple the world's installed renewable energy generation capacity to at least 11,000GW by 2030, and collectively double the UK annual sorry, double the global and annual average rate of energy efficiency improvements from around 2% to 4%.

00:52:53:14 - 00:53:25:21

We have the sixth UK carbon budget, um, which requires a reduction in UK greenhouse gas emissions of 78% by 2035. Um, and what this tells us is that the scale and pace of action to reduce emissions is deep, and it's essential that rapid progress is made. Uh, the rate of emissions must increase. Otherwise the legally binding UK targets set out in the carbon budget won't be met.

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and it's clear that energy demand is expected to grow substantially. Um, as and as and carbon intensive sources of energy need to be displaced, um, by other types of generation decisions through the consenting system like that for Moana must be responsive to that change position. And as we've heard from the National, we know from the national policy statements, it is important that substantial weight is given to those energy policy objectives where there is an urgent need for new renewable energy generation, including offshore wind.

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Mona can make a mean, a large and meaningful contribution to decarbonisation and security of supply while helping to lower bills for consumers, thereby addressing important aspects of the UK's um legal obligations and government policy, and reducing Wales and the wider UK's dependency on hydrocarbons has really important security of supply. electricity cost and fuel poverty avoidance benefits. There are also wider benefits of the scheme that would need to be taken into account in that balance, which include the biodiversity benefits set out through the project, through the enhancement of existing habitats and increased connectivity of those habitats.

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And those are set out in the Biodiversity Benefit and Green Infrastructure Statement, which is app 193. The project will provide socio economic benefits to local businesses through the construction and operations phase, with the ability to support 9380 jobs and 675 million in gross value added. This is from the statement of reasons and the planning statement. These figures um.

00:55:12:00 - 00:55:34:09

The applicant recognises the importance of article one and the protection of property of this article one of the um Convention on Human Rights, where every natural or legal person is entitled to the peaceful enjoyment of his possessions. But the public interest for the Mona Project is is clear, is compelling, and there is an urgent need for that project.

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The approach the applicant's taken to seeking those powers necessary to deliver the project has been compliant with the legal requirements and, as I've explained, um, the approach taken to both compulsory acquisition, the acquisition of rights and temporary possession is, is to seek a proportionate approach and minimise that as far as possible.

00:55:59:06 - 00:56:35:18

It is ultimately a matter for the Secretary of State. However, the applicant considers that not only is it met those tests in section 1 to 2 um, but also that there is that compelling case in the in the public interest, um, for land to be acquired compulsorily. I'll just come on to, um, the test on reasonable alternatives, and then we can stop for a bit if you'd like, if we we'd like to take some, some, um, comment on that. Um, so there is an important test in the communities and local government guidance, which is paragraphs 8 to 10, which I've already referenced, which is that all reasonable alternatives to compulsory acquisition have been explored.

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And there are two points. There are two prongs to this. One is um, is there an alternative way to secure the rights that are needed, um, or the land that's needed? And then whether an alternative project or an alternative approach would have, would have avoided compulsory acquisition? Um, mistaken will provide an update on land agreements. Um, but but the applicant and its agents have been engaging with landowners since March 2022, seeking to secure voluntary agreements necessary to deliver this project, um, mistake and will give that update on the current position.

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Um, however, it is really important to recognise that for most linear projects, um, that or for of all linear projects, the number of land interests and the complexity of that of the project means that, um, compulsory acquisition will be required to deliver the project that is recognised in paragraphs 25 and 26 of the uh Department for Communities and Local Government, which states that where proposals would entail the compulsory acquisition of many separate plots of land, such as, for example, long linear schemes, it may not always be practicable to acquire by agreement each plot of land, and where this is the case, it's reasonable to include provision authorising compulsory acquisition covering all the land at the outset.

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And that's what the applicant is seeking to do.

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Um, and the applicant, um, should consider at what point the land they are seeking to acquire will be needed and as a contingency measure, should plan for compulsory acquisition at the same time as conducting negotiations. That's also confirmed in National Policy Statement in five and section 2.6, which confirms section sorry, paragraph 2.6.2, where the applicant does not own or wish to own the land in question. And that's important here. For the purposes of the cables, the applicant does not want to own the land where the cables are installed.

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It just needs rights there to be able to maintain those cables. It should reach a voluntary agreement. Um, but if it doesn't seek an agreement, it may seek to acquire those rights compulsorily.

00:58:53:05 - 00:58:53:20

Um.

00:58:58:04 - 00:59:36:00

There is, uh, um, I want to come on to that, but sorry, I've just, um, point around alternative. So the the applicant's position is in respect of alternatives. Um, there is no alternative that would avoid the compulsory acquisition of land or rights in land. They are needed to underpin the scheme and um. And that um, whilst negotiations are ongoing with all the landowners, um, it isn't the case that that compulsory acquisition should be something that follows on after those negotiations.

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It needs to be run in parallel at the same time to ensure that ensure that there isn't a delay or a potential delay to the delivery of the project.

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I'm happy to pause there if that would be helpful.

00:59:53:08 - 01:00:18:10

Thank you, Miss Dunn. That was a very helpful and a very comprehensive overview. The save for the, um, query that sprang into my mind that I really interrupted you with, um, there's there's nothing that, um, is that I want to raise with you at present. Um, does the my colleagues in the X8 know. Okay, well then I think I'll open it up to the floor.

01:00:18:12 - 01:00:50:25

That was, sorry, less than half the applicant. There was just one thing I wanted to say in respect of alternative ways to secure rights. I said that Mr. Dakin will give an update on progress with landowners, but I think it's important that the examination notes that as of today, heads of terms have been signed for 67% of the cable corridor landowners, which represents 70% of the cable corridor. That's the starting point, the heads of terms. So that's voluntary heads of terms. Um, but um, that's that's significant progress.

01:00:50:27 - 01:01:11:04

Um, and the applicant will be continuing to seek those heads of terms in agreement with landowners, um, throughout the rest of the examination. Again, I want to just stress that doesn't mean that those plots will come out of the compulsory acquisition, but the objective is to secure the rights in land by agreement, wherever possible.

01:01:11:22 - 01:01:44:28

When It's done. Thank you. I certainly wanted to hear more on that under agenda item four, because I think from notes I had made, um, from the tracker helpfully submitted a deadline three uh, that that's a more encouraging outcome. Um, but we we will certainly revert to that. Thank you. Um, as I cautioned at the outset, um, that will take site specific objections from affected parties and agenda items four and five.

01:01:45:00 - 01:02:18:02

But with that in mind, do any of the participants have any general points apart from the perpetuity issue that that that I will come on to, that they want to raise on what you've heard from miss Don on the applicant's case for compulsory acquisition and temporary possession. Um, so are there any is there anybody who wants to make any submissions on that point? I know, Certainly we do have, um, uh, written evidence on the point. I don't see any indication.

01:02:18:06 - 01:02:19:09

Mr.. Parry.

01:02:19:21 - 01:02:22:22

Yeah. Griff. Parry. Parry. Wade. Um,

01:02:24:12 - 01:02:40:18

a number of concerns about the audit. I haven't finished, um, going through the order yet. I intend to provide comments on them and as soon as I can. And a written submission. I understand there's a hearing next week, which, unfortunately, I can't attend in person. Um, but,

01:02:42:14 - 01:02:42:29

um.

01:02:44:29 - 01:02:52:15

Obviously, I've raised a number of concerns that the, um, statutory tests haven't been passed, but this is about article 29.

01:02:52:17 - 01:02:57:29

Sorry to interrupt you, Mr. Parry. Could you just move the microphone slightly further down so the audio can pick you up? Thank you.

01:02:58:15 - 01:03:17:25

Um, article 29 and the temporary powers. Um, it seems to be some debate about whether temporary powers are permissible under a development Consent Order. In light of its being based on the Acquisition of Land Act 1981, um, and

01:03:19:13 - 01:03:38:28

um, the fact that the acquisition. Acquisition of Land Act 1981 only permits the acquisition of rights, which temporary occupation is not temporary occupation is merely, um, consent for something that would otherwise be a trespass. Um, I'm in the process of formulating a response on this, and I'll have that to you as soon as I can.

01:03:41:16 - 01:04:12:18

Thank you, Mr. Perry. When you referred to next Thursday's, um, issue five and the sorry issue specific hearing, five were the development consent orders being considered, and you said you can't attend. It is remote hearing. Would you be able to join us via that medium? Yes. Okay. Thank you. Well, certainly. If not, we'll anticipate your your submission. But looking at the the nitty gritty of of the articles would be the, the domain of of of that forum.

01:04:12:20 - 01:04:18:17

So thank you. Thank you. Does that conclude what you wanted to share with us this morning?

01:04:20:21 - 01:04:33:06

On that specific point, thank you. Is there anybody who has joined us via teams that wants to make any submission, having heard Miss Dunn's um.

01:04:35:17 - 01:04:42:04

Account? I don't see any hands. Okay, well, thank you for that.

01:04:43:19 - 01:05:35:14

So, um, I have had asked you to park, um, the the what seems to be a hot topic for many affected parties of the acquisition of land and rights in land in perpetuity. Um, we will be hearing later from 1 or 2 parties on the subject as they couldn't join us this morning. However, at that time I won't open up the issue again for general discussion. So, um, can we here at this juncture, from the applicant, is there anything that they want to add to their, uh, submission that we've we've just heard about why that particular approach has been opted for? I know that we there was reference made to the substation site, but is there anything else that you'd like to supplement that with? Thank you.

01:05:35:20 - 01:06:08:17

Thank you. Madam Li's done on behalf of the applicant. Um, I think there are the it's important to understand the, um, framework within which compulsory acquisition powers can be acquired. And this is separate to any discussions on voluntary agreements. Voluntary agreements can agree whatever it is they seek to agree. When we're looking at the acquisition of land or rights in land under as part of compulsory acquisition, you are. Um, you are limited by what can be done as part of that.

01:06:08:19 - 01:06:40:03

So in respect of, um, freehold acquisition, um, seeking, um, uh, effectively exclusive use of land, um, in perpetuity for a long period of time, um, that excludes the, uh, would exclude the existing landowner, requires, um, complete control of that land. Um, the only option under compulsory acquisition is freehold acquisition of that land.

01:06:40:05 - 01:07:30:29

It isn't possible to acquire land under compulsory acquisition for a specified period of time. It has to be freehold acquisition. As I've said, voluntary agreements can do different things. But for the purposes of compulsory acquisition, that's what we. That's all we can do. The same is true in respect of, um, of acquiring rights in land is that they can't be acquired for a period of time. They can be, um. You'll note that that, um, some of those rights have been, have been sort of tied to the amount of time that, um, for example, on the environmental mitigation that those rights have been tied to the duration or the amount of time that that mitigation is required to be maintained, um, for the purposes of, of, uh, of maintaining that under the order.

01:07:31:01 - 01:08:06:17

But that is different to specifying a period of time, i.e. five years, ten years, 25 years, whatever it is, um, which, which isn't something that, um, that those rights is not a way in which those rights can be done. So the applicant's only option under compulsory acquisition is freehold acquisition of land or permanent acquisition of rights. Save where you can you can link them to something else, like the duration of a permission or a consent Also worth noting there that for the purposes of this order, this order exists in perpetuity.

01:08:06:19 - 01:08:23:27

It's not a time limited planning permission. It's a permanent it's it's a permanent consent that that effectively lasts in perpetuity. And that is why the approach is being taken, as I say, within the development consent order, to the acquisition of land and rights on that basis.

01:08:25:18 - 01:08:40:13

Can I just come back on one point? Sorry that Mr. Parry made, um, the the use of temporary possession powers, um, for development consent orders is very well precedented. Um, in uh, in

01:08:41:29 - 01:09:16:11

I would suggest almost all of the certainly since about 2000 the, the, the, uh, development consent orders that have been granted for offshore wind projects. It's an it's an accepted approach. And it's also worth noting that because the development consent order is in itself a statutory instrument, it can apply and apply various provisions of the act that are relevant, and there are specific provisions in the Development Consent Order that both apply and to apply provisions of relevant compulsory purchase legislation.

01:09:16:18 - 01:09:34:09

Um, that we discussed at the start. I didn't go into it in detail. I welcome Mr. Parry's submissions, but, um, I think the applicant's position on on temporary possession is that it is a legitimate and and a lawful approach to seeking powers. That's very well precedented in other orders.

01:09:39:15 - 01:09:44:11

Mr. Parry, is there anything you want to add now or will we await your written submission?

01:09:47:20 - 01:09:51:04

Okay. Thank you very much. Could I just respond on.

01:09:51:25 - 01:09:52:17

Um, Mr..

01:09:52:19 - 01:10:23:06

Perry, can I just ask a question of Miss Dylan? If I don't cover it, then I'll admit you. And. And then the next participant who's who's indicated a wish to contribute based on a lot of the, um, or several of the apps have pointed to what they, uh, what they've quoted as precedent for other and sips where they leaves or, um, were used in respect of the rights.

01:10:23:08 - 01:10:53:27

Sorry, the compulsory acquisition and the, the rights in land that you're seeking via that mechanism. Um, they've asked why if the timescale of the proposed development is 40 or x number of years y. Uh, correspondent Wei leave that was pinned to the same time. Couldn't satisfy your the applicant's requirements. Um, and I did.

01:10:53:29 - 01:11:10:03

There was a question included at XQ1, referring to provisions of National Policy Policy Statement five um, where there is a policy on the use of compulsory acquisition

01:11:11:29 - 01:11:29:21

rather than way leaves or a more temporary mechanism. But notwithstanding, I think it's a point this exercising several of the affected parties. So if there's anything that you want to add before we hear from them that point, that would certainly be helpful.

01:11:30:19 - 01:12:02:20

Thank you. Liz. Dan, on behalf of the applicant, I think the best I can do is probably refer to, um, section 2.6 of National Policy Statement in five, um, which talks about. So this is in respect of um electricity infrastructure, um, and which talks about land rights and interests in land. And, um, it recognizes that paragraph 2.6.1, that applicants must have a sufficient interest in the land in order to deliver that project.

01:12:03:05 - 01:12:43:28

Um, it then talks at paragraph 2.6.4. Um, in cases where compulsory acquisition of rights is sought, permanent arrangements are strongly preferred over voluntary way leaves, which could, for example, be terminal or notice by the landowner in virtue of their greater reliability and economic efficiency, and reflecting the importance of the relevant infrastructure to the nation's net zero goals. So the applicant is merely following the, uh, what is what is, uh, suggested and suggest reasonably suggested in N5 that, um, that those permanent arrangements are the right way to take those projects forward.

01:12:44:00 - 01:13:17:03

I think it's also worth considering those in the context of, um, uh, where voluntary way leaves lives were used. Previously, it tended to be in the context of statutory undertakers, who would then be securing those leaves with in respect of this project. Um, the electricity, the, the transmission infrastructure must be, uh, given over to the offshore transmission network operator, the offshore. Um, and they will require those, those more permanent, um, rights inland um, going forward.

01:13:20:12 - 01:13:33:03

Thank you, Miss Dunn. Mr. power, if I can just ask you to hang on because I'm reliably told that there was a virtual hand had been raised before you. So, Miss Staples, do you want to to join us?

01:13:34:01 - 01:14:21:09

Thank you. Yes. Can you. Can you see me and hear me? Thank you. So it's Louise Staples from the NFU. Uh, yeah. And I'm obviously representing NFU members that are affected by the Moana scheme, um, along with agents who are acting for them directly. Um, just in regard to this final point that has been raised. Um, I, I do understand why the applicant would, would not, uh, want to rely on way leaves. But as I've raised in written submissions and to reply to first written questions, um, we still don't really understand why the applicant isn't prepared to offer, um, all of the, uh, landowners who are affected, a time limited easement, which we have done on other projects.

01:14:21:16 - 01:14:25:22

We still have no been given, no real reason for that.

01:14:27:14 - 01:14:31:04

So that is still a question that we would still like to get. Agreed.

01:14:32:25 - 01:14:33:10

Thank you.

01:14:33:12 - 01:14:50:14

Okay, thanks. Thanks, Mr. Balls. I think that was the point that I was trying to, to paraphrase um, on that had come out of the submissions on that point, but I'll, I'll hand over to, to Miss Dunn if there's anything that she wants to add to her response to me on that point.

01:14:50:25 - 01:15:21:15

Thank you. Liz. Dan, on behalf of the applicant. I think I made it clear at the outset that that the ability to, um, agree something time limited or otherwise, is a matter for the voluntary agreements, not for the compulsory acquisition. And we are focusing today on the provisions in the development Consent order relating to compulsory acquisition. As I said at the outset, it is within the voluntary agreements it is possible to agree a number of different things. They are just not matters that can be baked into the development consent order.

01:15:24:03 - 01:15:32:29

So there, there is that possibility. But just to reiterate, outside the the the remit of the plan of the

01:15:34:15 - 01:15:48:25

compulsory acquisition provisions of the Planning Act of 2008, that that's something that you could be, uh, the applicant's representatives could be discussing with Miss Staples on members outside of the examination.

01:15:49:12 - 01:16:13:08

Liz Dunn on behalf of the applicant. They are matters that are being discussed with Miss Staples and others outside in respect of the voluntary agreements and those those, those negotiations will

continue, as I said, in respect of what we're talking about today, which is what can be included within the development consent order. Um, that isn't something that can be baked into this order.

01:16:16:04 - 01:16:23:16

The staples does that, uh, advance your understanding of the the rationale any further?

01:16:25:00 - 01:17:00:29

Thank you. The, uh, Louis Staples for the NFU and NFU members affected. Um, my understanding is that we're we're being told that the development consent order has to be given in perpetuity. Um, I think that needs to be looked at. Um, and I just wanted to make it very clear to all of you, the examiners. That at the present time, the applicant is not entering into negotiations to agree a time limited easement with us. They have said they want to take the rights in perpetuity, and they're saying it's because of the DCO giving their rights in perpetuity.

01:17:01:01 - 01:17:03:06

I just wanted to make that very clear. Thank you.

01:17:04:03 - 01:17:38:07

Thank you, Mr. Balls, and I appreciate you joining us. I know at one juncture that you were, for whatever reason, that you weren't able to join us for this afternoon, and I did particularly want you to hear from your contribution on that point, because I know it's something that's obviously of concern to a lot of your members, and that are is coming out very loud and clear in the written submissions and in the next agenda item. Certainly, I do want to hear more on the progress of negotiations with individual affected parties.

01:17:38:09 - 01:17:43:03

So thank you. Can I hand back to Miss Dunn if there's anything that she wants to add on that point.

01:17:43:29 - 01:17:51:15

List on on behalf of the applicant. Nothing further. Todd, I think we've made our position very clear in respect of that. Um, so I don't have anything further to add.

01:17:53:00 - 01:17:57:12

Okay. Thanks for the present or not, Mr. Perry, you wanted to make a contribution?

01:17:58:14 - 01:18:30:25

Uh, yeah. Just going back a step to, um, Mrs. Dunn's, uh, quoting of the definition of required under the act. Um, I just wanted to go a bit further and complete the picture there because, um. What what Lord Rausch said in Shakey was that because of the nature of the power given to the promoters, namely, to deprive the owner of his land against that owner's will, I prefer to adopt the strict meaning of the word required. In my judgment, the word means that the compulsory acquisition of the land is called for.

01:18:30:27 - 01:19:05:01

It is a thing needed for the accomplishment of one of the activities or purposes set out in that section, and without the use of the compulsory powers, the necessary purpose is unlikely to be achieved. And

that was furthered by Lord Cowan, who said, um, that the local authority in that instance do not have to go so far as to show that the compulsory purchase is indispensable to the carrying out of the activity or the achieving of that purpose. Or to use another similar expression, that it is essential.

01:19:05:03 - 01:19:22:22

On the other hand, I do not find the word desirable satisfactory because it could be taken for convenience, which clearly, in my judgment, is not sufficient. I believe the word required here means necessary in the circumstances of the case and required for the accomplishment.

01:19:24:24 - 01:19:25:13

Thank you.

01:19:25:24 - 01:19:56:12

Mr. Perry. We certainly have thought from you, and I think it was maybe. No, it's not a caution or a sanction. It's just a reminder for myself, um, that we have in one of your written submissions. Maybe the one, a deadline one. So it's just a neat memoir to me. Um, when you're every time I invite you to speak just for the sake of the recording, even though I do address you as Mr. Parry, can you just introduce yourself before you speak, please? It's very difficult to remember.

01:19:56:14 - 01:20:00:26

So, uh, my my sympathies. Miss Dunne, do you want to.

01:20:03:06 - 01:20:36:15

Uh, listen, on behalf of the applicant, um, I think Mr. Parry and I are both using the same case to justify and the same wording to justify our positions, um, in respect of what is necessary. Um, I would just refer back to to what I said previously. Um, the local authority in that case didn't were considered not to have to go to show so far to show that the compulsory purchase is indispensable to the carrying out of the activity, uh, or that it is essential. Um, there is the part that the additional wording that Mr.

01:20:36:17 - 01:21:01:04

Parry highlighted in that doesn't find that the word desirable is satisfactory. I think, um, it's very clear the applicant's case that that, um, compulsory acquisition is necessary of, uh, uh, the compulsory rights that are sought and the compulsory acquisition of land is necessary for the purposes of this project and necessary in the circumstances of the case. I do not think I've got anything more to add on that.

01:21:03:15 - 01:21:27:09

Thank you for that. Can I move on from that point? Then I present. Thank you. Are there any other general overarching issues relating to the applicant's case for compulsory acquisition and temporary possession that we haven't covered that any of the parties want to raise under this strategic agenda item?

01:21:30:24 - 01:21:44:22

I don't see any indication that there is. So thank you for that. Is there anything that my the Xa wants to raise? No. Uh, Miss Dylan, is there anything you want to add? Or have you exhausted your. Thank you.

01:21:46:11 - 01:22:08:18

So on that basis, I'll assume that participants are content to move on from this agenda. Item three and we will turn to look at item four, which is site specific issues for the applicant. Um, I'm just going to confer on whether it's an opposite. Time for a short break.

01:22:13:26 - 01:22:28:20

Okay. Um, I think it is just a good point of an actual break. So we'll adjourn for 15 minutes and, um, hopefully see you back here after 11. Thank you.