



## Hearing Transcript

<b>Project:</b>	EN010140 - Helios Renewable Energy Project
<b>Hearing:</b>	Compulsory Acquisition Hearing 1 (CAH1)
<b>Date:</b>	5 December 2024

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FULL TRANSCRIPT (with timecode)

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

Good morning everybody. It's now 10:00 and it is time for this hearing to begin. So I'd like you to welcome you all to the compulsory acquisition hearing for the Helios renewable energy Project. Can I just check that? Everybody can hear me clearly. Okay. Can I also just confirm with the case manager and the audio visual team that this event is being live streamed and recorded?

00:00:27:11 - 00:01:00:28

Yeah. Thank you. So my name is Ken Taylor. I've been appointed by the Secretary of State as a single examining inspector to examine this application. You'll also hear me referred to as the Examining authority and the EXR for short. And assisting me today is Matthew Sheard. He's the case manager and Harrison Coles case officer. And then online we have Melissa Whitlock this morning. And then we'll have Rebecca Luxton this afternoon helping online just to deal with a few housekeeping matters. So I've not been told if any um fire alarm test or drill.

00:01:01:00 - 00:01:28:09

So in the event of a fire alarm, the exits are on the side through the double doors. And then they must have pointed out on the lawn beyond that. So I have prepared an agenda today for this hearing, and I'm going to try and capture the action points as we did yesterday. But if the parties do the actions, Reston can also try to capture them and will will will catch up on the action points at the end of each substantive agenda item.

00:01:32:12 - 00:01:40:15

So today's meeting is is being held as a hybrid meeting. But my understanding is we don't have any virtual attendees at the moment. Um.

00:01:43:25 - 00:02:15:25

A recording of today's hearing will be made available on the project web site as soon as practicable after this hearing. So with this in mind, could you all speak clearly into your microphones and every time you speak? Could you state your name and who you represent? um, I know this can be a little bit tedious, but it's really helpful for the recording for people listening back and and also for searching through transcripts at a later date. Um, and because this is being live streamed, could you also just try to avoid putting any personal information in onto the recording that you would not wish to, to be published?

00:02:18:02 - 00:02:56:26

So the purpose of this hearing, um, it is, is compulsory acquisition. And we are looking essentially at the applicant strategic case. Um, the application includes a request for an order granting development consent to authorise compulsory acquisition of an interest in and rights over land. Um, so this this hearing enables me to hear and prove the applicant's strategic case in respect of the application for for

affected persons who wish to be heard in individual cases, there will be an opportunity for future acquisition, compulsory acquisition hearings so we could hear from any affected persons.

00:02:56:28 - 00:03:18:07

I did at the procedural deadline. A there was an opportunity for any affected persons to request compulsory acquisition hearing of that nature, which we did not receive any requests. There is a further opportunity for that to be requested at deadline one. Um, and so if those requests are made, then we would order a further compulsory acquisition hearing.

00:03:21:01 - 00:03:31:07

Um, so moving on to introductions. Could I start with the applicant and could you introduce yourself and then the members of your team who are likely to speak? Thank you. Yeah.

00:03:31:14 - 00:03:42:16

Good morning, sir Catherine Treacy, director at Burgess Salmon. I think today it's predominantly going to be myself. Um, unless you have specific questions about parcels of land, um, when it may be somebody else.

00:03:42:18 - 00:03:46:21

Okay. Thank you. Um, and then if I could turn to the North Yorkshire Council, please.

00:03:49:23 - 00:03:53:15

Michael Reynolds, Mr. Reynolds, North Yorkshire council. Um,

00:03:55:03 - 00:03:59:29

But there's no item on the agenda that we're specifically looking to speak against. Just if, if necessary.

00:04:00:01 - 00:04:38:03

Okay. Thank you very much. Thank you. And I believe that is that is it in terms of attendees today. So thank you everybody. Okay. So then moving on to the first substantive agenda item. So agenda item four. Um, so this this is to deal with the relationship, um, between the design approach and the extent of land sought, um, in the applicant's initial, um, compulsory acquisition and temporary possession request. Um, so first of all, I just want the applicant to explain the approach in terms of the extent of the land that is sought to be subject to the compulsory acquisition.

00:04:38:20 - 00:04:55:19

Um, and then in particular, I think if I can, if I can have the applicant's kind of overview of, of that approach. But then in particular, I do want to have a, a discussion around the interconnecting cable corridor and the extent of the land, which we, we discussed yesterday as part of the biodiversity matters.

00:04:57:06 - 00:05:29:23

Yes, sir. So, um, all the land within the Red line boundary is subject to compulsory acquisition powers. Um, it is notable that we are not seeking to the freehold acquisition of any land, and that is predominantly because this is a 40 year, um, project. And, and therefore it would be disproportionate

to take land on a permanent basis. In addition to that, we do have a significant number of voluntary agreements in place. All the solar array areas are subject to voluntary agreement.

00:05:29:27 - 00:06:02:03

So it wouldn't it's not envisaged that we would need to use compulsory acquisition powers for the panel areas. And in fact, we're not seeking, um, compulsory acquisition for panel for the purposes of putting panels on the land. Uh, the rights we're seeking are access rights, underground cabling rights, um, and vegetation and maintenance, um, rights in various um guises across the scheme, depending on, um, the solar area and the, the land owned by Drax and then the actual substation land as well.

00:06:03:02 - 00:06:09:29

So that that's been the approach is to take the least interest that we need, um, in order to be able to be certain that we can deliver the scheme.

00:06:11:08 - 00:06:30:18

Um, so there are some things that you mentioned that we'll cover, perhaps in a little more detail later on in the agenda, just some clear. So with the, the, um, voluntary agreements that you're, that you've managed to secure so far, um, is that then to, to then lease the land for the 40 to 40 year period?

00:06:31:04 - 00:06:36:01

Yes. Including construction and decommissioning because the operational period is is 40 years.

00:06:36:03 - 00:07:23:27

Yeah. So I just wanted to double check that it's 40 years plus construction plus decommissioning. Yes. That's right sir. Thank you. Okay. So in terms of the interconnecting cable corridor, so that roughly T shaped piece of land in the center. Um, so obviously that is much wider than would be strictly necessary for the, the cable. And we did have some conversations about that process and narrowing that down. So I think I just want to understand why why the land sort is this, this size and I guess shape that it current currently is and why why it needs to be as wide as it is when ultimately a a very small strip or strips would would ultimately be required for the cabling.

00:07:23:29 - 00:07:38:03

But I do also appreciate particularly having our conversation yesterday about the mitigation for ground nesting birds that that may be on that land. And so I just want to understand what how you've got to that amount of, of land.

00:07:39:04 - 00:08:17:11

Yes, sir. Um, Catherine Tracy, for the applicant, there's um, it is a standard approach with cable corridors that at this stage you don't know exactly where the cable would go. The shape of it is to connect the two parcels to the roughly east and west, and the parcel then to the south, um, to take the cabling across, uh, so that it can go to the export. Um, so that's, that's why it's the shape. It is, uh, it is as big as it is because we don't know exactly where we need to put the cable. And that is subject to ground investigation works, which, as I said yesterday, this is good, productive land for the landowners.

00:08:17:20 - 00:08:48:26

Um, and they're actively farming it. So we don't want to disturb that until we know where the cables go. Also, we don't know where the cables would even come in or go out until we've done detailed design of panel layouts and things. So there's there's a number of steps to go beforehand. Um, it's probably the so that's why it's as big as it is in terms of how you then get to the smaller area. So once we've done detailed design and we know where the cables will go, and we've done the, um, soil surveys and the, um, ground investigation works.

00:08:49:26 - 00:09:20:01

The all the land subject to compulsory acquisition in the DCO is also, um subject to temporary possession powers. So that allows us to go on to the land and carry out the works, and then only take the rights after we've done the works over the land that we need. Okay. Um, so that's, um, that saves us needing to take the rights over the whole width of the land because you can go in, install the cables, and then you take your compulsory acquisition powers if you need them over that land.

00:09:20:10 - 00:09:20:25

Okay.

00:09:21:13 - 00:09:42:27

So just setting aside the, um, the national bird mitigation for a moment. So just purely thinking about the, the, the ultimate position of the interconnecting cables. Um, so then, then if you exercise the compulsory acquisition rights, that would then that would then ultimately only be over that that narrower strip is I understood you correct.

00:09:42:29 - 00:09:43:27

Yeah. For the cable rights.

00:09:43:29 - 00:09:45:24

Yes. Okay. Okay.

00:09:45:26 - 00:10:12:08

So the vegetation and access. Yes. Um, for the skylark plots. Maybe on. Maybe over the wider strip if it's needed. Okay. I mean, that's in the event that we need to exercise a compulsory acquisition powers at all. So. So, um, because we've got land drone agreement for the above ground works, and the landowner is content to provide the skylark plots. Um, it's. I would suggest it's unlikely that we'd need to exercise them for that purpose.

00:10:12:10 - 00:10:38:02

Okay. In the event that you did, given and given what we heard yesterday about the Skylark plots can essentially move because it can be a different location each year. Would that mean that that you would actually need to, you know, again, assuming that you would actually need to exercise the compulsory acquisition, um, that you would actually need a significant portion of that, that T-shaped area of land, or would that also narrow down substantively?

00:10:39:11 - 00:11:13:01

Uh, so I think it would need the right itself would need to be taken across the whole of that land for the skylight mitigation plots. Um, because. Because they move. Um, but the exercise of the right, um,

would be only such that it needed to provide the Skylark mitigation plots on an annual basis. Um, so we would the undertaker, the applicant would have the power to go on to the land and clear the vegetation in such a manner that would allow that the skylark plots to be there.

00:11:13:18 - 00:11:15:06

And then the remaining to be.

00:11:15:08 - 00:11:50:14

Taken out. Yeah, but the right we need to be taken over the whole of the land, but the remainder of the land would then be unaffected by the right in that year, because it would be, um, disproportionate for us to. Well, we wouldn't want to clear the whole of the, the plot of land of the vegetation, because that would defeat the purpose in many respects. Okay. And linked to that, there would be compensation. So as part of this, the landowner would be able to claim the compensation. So in the event that the rights weren't exercised in a proportionate manner, the compensation claim would be, um, probably quite high.

00:11:50:23 - 00:11:51:13

It would be higher.

00:11:51:15 - 00:11:53:11

Higher than strictly necessary.

00:11:53:15 - 00:11:56:01

And again, that's not in the commercial interests of the undertaker. So.

00:11:57:06 - 00:12:10:05

Okay. Thank you. Um, I just want to sense council. Do you want to say anything? Or if you're here to observe, do you just want to. If you do want to say anything, you just want to draw my attention at the right time rather than me continually asking you.

00:12:10:27 - 00:12:13:23

Yes, I think that would be the the right approach. Okay. Okay.

00:12:13:25 - 00:12:14:18

Thank you. Okay.

00:12:16:11 - 00:12:48:14

Okay. So thank you. I think that's deals with the kind of the first element of, of um agenda item A. So moving on to the, the second element, and it might well be that we kind of just take, take the kind of the bullet points and the kind of wider principle together. So as you've said, and you know, as is clear, you're not seeking any permanent acquisition of land, but just acquisition of rights. Um, and we'll move on to temporary possession later.

00:12:48:16 - 00:13:19:00

But if we just deal with the, the rights and so I just, I do I just want to just want to explore this, this approach. I appreciate your overarching view. Is that because it's a 40 year well and plus plus a few

years either side um project that it's disproportionate, but it's really just just checking that. Are there any implications of that in terms of delivering the project? First of all. And then and then secondly.

00:13:19:02 - 00:13:32:15

But it might be intertwined with that. It does. Is there any situation where that actually causes landowners greater problems than actually if if acquisition was just actual land acquisition was sold?

00:13:33:13 - 00:14:17:18

Yeah. So Catherine Tracey for the applicant, um, we don't consider that there are any circumstances where permanent acquisition would, um, well, would be beneficial to this project. Uh, it would it would be simpler and easier in terms of we would acquire all the land, but it it's that a disproportionate, um, step because at the end of the project, we would then need to divest ourselves of all of the land. We're a, um, a renewable energy business. We're not an agricultural farmer. So, um, we we say no, and I don't think we could meet the compulsory acquisition tests, um, as it being a mechanism of last resort and necessary and proportionate in order to acquire permanently any, any of the land that we need.

00:14:17:27 - 00:14:50:00

Um, so it is not, um, it is not the case that permanent acquisition would be beneficial. And it's I don't think it wouldn't be beneficial for the landowners either, because then we would acquire essentially that cable corridor, um, permanently with an underground cable, which would then effectively have the impact of preventing the landowner from using the surface of that land for farming for the lifetime of the development. Um, the landowners are content, without exception of the approach that's being taken.

00:14:50:02 - 00:15:25:19

There are voluntary agreements in place we're not envisaging. Um, certainly for the solar areas, uh, needing to use compulsory acquisition powers. But the reason they're there, these are subsurface cabling rights and, um, access rights, which and the access rights are really to deal with. So the, the highways and the sub soils, and there are some unregistered plots around the edges where it's not, not clear, um, who owns the land. So, um, that's the reason for this, for taking rights as opposed to permanent acquisition.

00:15:26:25 - 00:15:53:14

Um, and in terms of could, is it that the land owner would be unfairly burdened? Um. No, sir. Again, these are, um, predominantly subsurface, so the landowner will the landowners will be able to continue to use their land in the way they have before, once the cables are installed. So there's some disruption at construction stage but and decommissioning. But otherwise they should not notice any difference. Okay.

00:15:53:16 - 00:16:16:18

So I mean that's obviously relevant for the the interconnecting cable corridor. But then for the actual the array, the panel arrays. And you mentioned earlier that you're actually not seeking the rights to install to install physically installed. Can you just talk me through the rationale behind that and any potential implications of or. Yeah, of of that actually not being included in the we.

00:16:16:20 - 00:16:49:10

Have agreements, options, signed options which um, are for the benefit of the applicant that are legally enforceable, that mean we can enter onto the land and construct solar panels. Okay. And do do everything else. We also need to do, just for the avoidance of doubt, it covers all the cabling and everything else. But what we we don't have certainty of is once you, once you start digging in the ground to lay a cable, you don't know what's down there. We've got a fair idea. But, um, until you actually dig down, you might find something you didn't know was there.

00:16:49:12 - 00:17:06:03

And that's the reason for taking the rights, the subsurface rights over the panel areas. But we are we are absolutely. We have landowners under option and who are fully supportive of the scheme. So we we do not need compulsory act. We couldn't justify compulsory acquisition rights.

00:17:06:06 - 00:17:07:07

In that circumstance.

00:17:07:09 - 00:17:13:26

In that circumstance it's a matter of last resort. And yeah, our first resort, a voluntary agreement is in place. Okay.

00:17:15:29 - 00:17:17:05

Okay. Thank you. Um.

00:17:25:21 - 00:17:32:15

So let me move on to the third item. Um, which is really just looking at the actual tests. Um,

00:17:34:09 - 00:17:45:04

And and then, yes, you could just deal with why you think you have met both the tests in section one, two two and 1221222 and one, two, two, three. And just briefly.

00:17:48:06 - 00:18:23:08

Yes. Well, Catherine Tracy for the applicant. Uh. Yes, sir. So, um, it is all set out in the statement of reasons that, um, section one, two, two, uh, the land or the rights of being acquired are required for the development for which the DCO relates. Um, they are we we can put the solar panels up at the. We must be able to connect it to the grid, um, and to be able to construct the, um, intra array crossings. So, uh, we definitely need all those powers and the certainty to make sure that we can deliver the renewable energy benefits.

00:18:24:14 - 00:18:55:02

Um, and that's, that's really Lims A and B in terms of required for the development and required to or required to facilitate it. Um, and there is no special category land here, so, so we we don't need to worry about replacement land. Um, we have undertaken as we've gone through this process, we've looked at each individual plot and questioned, do we need it? Um, why do we need it? And that is all set out at the back of the statement of reasons, where you've got a detailed plot by plot review.



00:18:55:08 - 00:19:06:24

Uh, we have made sure we have taken the minimum land necessary to deliver the scheme. So there isn't any anything in there that we we don't need. Okay.

00:19:07:18 - 00:19:21:17

Thank you. And then if we if we move on to alternatives to compost acquisition, which I mean we've, we have you've covered to some degree. So if you could just set out how you've explored it's explored that.

00:19:22:02 - 00:19:52:15

Uh, yeah. But starting from a um I suppose the highest levels are in terms of compulsory acquisition, um, wherever you put the scheme in order to ensure you can connect to the Greek connection point. Um, I can't envisage a situation where you wouldn't want some level of compulsory acquisition rights. Um, so it's not just a site this site is needing, and there isn't another site that would give us no compulsory acquisition rights. We would still need to go along the highway.

00:19:52:17 - 00:19:57:09

We would still need to go into Drax. We would still need to have those conversations. Um,

00:19:59:00 - 00:20:34:10

and we are having conversations with Drax in terms of crossing their land. Those are progressing towards voluntary agreement, but we're not quite it's not signed yet. Um, so we've looked at alternatives in the broadest sense, but there isn't a there isn't another scheme within our search area, another area of land where we wouldn't need some level of compulsory acquisition. Um, so then looking at our site, we have that's why we've got no permanent acquisition of land, because we have we've done land deals, so we don't need the what would be pink land on the plan.

00:20:34:12 - 00:20:55:12

So that's why it's all blue. Uh, and so then we've come down to rights and again, we're only taking the rights. Rights we need for the scheme. Uh, they're not excessive or disproportionate to what's required. So we have worked through the, the hierarchy for compulsory acquisition and come to the, the lowest point. We can't get any lower than just taking taking the rights.

00:20:55:14 - 00:21:02:20

Okay. Thank you. And then if we move on to temporary possession. Um.

00:21:04:27 - 00:21:20:11

So in this case, my understanding is that the land where you're seeking the, the, the rights and then also term possession are, are one and the same. And can you just explain what why that why that is the case please.

00:21:20:25 - 00:21:56:29

Uh, yes. And that is so that when we if we need to exercise the compulsory acquisition rights, that we can exercise them in the most proportionate manner. So, um, temporary possession would allow us to go on to the land, construct the scheme, which would then mean you know exactly where your cables are under the ground, because the cable rights at the moment could be anywhere. Um, and we would

know where our crossing points of highways are that we would need to take, um, any rights for, um, or if we're in the subsoil there, because it could be at the moment, it could be any point along the field boundary.

00:21:57:11 - 00:22:22:12

Um, at so you use temporary possession powers to go on and build and construct. And then after that you take your compulsory acquisition of your rights over the, over only the area you need. And again, that's to minimise, um, minimise the impact of your rights, but also to minimise the compensation liabilities that are out that may be there. So that's, that's the reason that it covers the same amount of land. Okay.

00:22:23:21 - 00:23:03:16

And so if those rights had to be Exercise, then is it so after after the temporary possession was was exercised in order to do the construction and then you were you were looking back. So I'm moving back slightly on the agenda. But but if you were then seeking the rights to, to acquire the rights, the acquisition to acquire the right, is that would that then principally because because you're not asking for rights to actually physically install the panels, would that really, really be the or the interconnecting cables below the land? And is there anything else that would be required, any of the kind of the the biodiversity mitigation or any, any of the drainage, etc.?

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Would that all still be triggered?

00:23:06:16 - 00:23:07:01

Um.

00:23:08:27 - 00:23:42:16

The rights are for access, cable rights, um, and vegetation. Right. Vegetation clearance and planting. So, so um, and those were all set out in each plot so we couldn't take any additional rights. We have the mitigation land under voluntary agreement. So the landowner is is signed up for the skylark mitigation. Um, we do actually have all the landscape and environmental management land under option as well.

00:23:43:00 - 00:24:09:12

Um, so we, we don't consider that we need rights for that. The, the above ground infrastructure in terms of um, of drainage, um, that that's not these sorts of schemes. Aren't there not huge amounts of underground drainage that are required and things. So, um, it is the installation of the piles, um, which is and the cabling, which is subsurface.

00:24:09:28 - 00:24:11:27

Okay. Thank you.

00:24:21:26 - 00:24:46:18

So probably just for clarity, actually the only place that does change is on the Drax golf course where we're we're doing Trench Lewis, um, installation of a cable route under the private railway. And I believe there are a couple of watercourses there as well, but that is captured within the, the, uh, the

cabling rights for those plots, which are slightly different to the other cabling rights. And that is because they're related to, to Drax.

00:24:46:20 - 00:24:47:05

Okay.

00:24:47:07 - 00:24:48:06

On the Drax land.

00:24:58:20 - 00:25:08:07

And then if we can then move on, could you just outline the approach you've taken to category three parties, please?

00:25:09:07 - 00:25:48:08

Yes, sir. Catherine Treacy for the applicant. Um, category three interests were, um, it's a it's a staged approach, and I think it's probably worth just stating at the outset that the inclusion of a party in the category three section of the Book of Reference, or their omission does not actually affect their ability to make a claim, their inclusion does not mean that we think they have a valid claim, and their omission does not mean that we have discounted them. Um, but where we started. So these are people that can make claims for dust, vibration, noise, artificial lighting and discharge of onto land of of other water effluent, noxious gases and smells.

00:25:48:10 - 00:26:25:11

So what we did there was we started predominantly with the noise, um, contour plan because it's usually noise, um, and, and lighting that are the two that, that generally could make somebody, um, be eligible for a claim because these are claims that can only be made for operational impacts as well. So then they don't cover construction um, or decommissioning. Um, so dust and vibration and things are, are not relevant at that point. And then we, we looked at the properties within that that area and have added those to the book of reference accordingly.

00:26:26:08 - 00:26:32:03

Okay, but there may be others that we've missed. We don't think there are, but if there were, then anybody could come forward.

00:26:32:05 - 00:26:32:26

Okay. Thank you.

00:26:34:21 - 00:26:56:21

Okay. Thank you. I think that concludes what I wanted to cover off an item a, and I do not think there are any direct actions at this stage. It is possible that I will follow up with some of this in the first round of written questions, if I have to. I have reflected on what I've heard today. If I feel I need any further clarity, um, on that.

00:27:00:05 - 00:27:11:24

Because if we can move on to the kind of the funding of the project funding statement. Um, and so, so I've obviously read a kind of understood what, what you've said in the funding statement, but can you just, um,

00:27:13:10 - 00:27:37:25

just just talk through the approach to, to ensuring there are there would be sufficient funds? Now, I appreciate that that this is some of, you know, it will come ultimately from investors at a later stage, but just really wanted to understand this approach and that that can be, um, satisfied that there is there is there would be sufficient funds, including any compensation or to deal with any compensation liabilities that would arise.

00:27:39:20 - 00:28:01:21

Yes, sir. So, um, the funding statement sets it out, I think, um, in, in a sufficient level of detail. But ultimately, the way um, these projects are funded is, is usually, uh, with a, um, some debt finance, um, and Macquarie with uh, currently um, the on

00:28:03:08 - 00:28:34:06

in the line for providing that finance. Um, they are um, more than happy to do that. Uh, and that would be the funds of the, of the actual build costs as well as, um, covering off any compensation claims in this case in terms of compensation claims, because of the nature of the rights that we're taking and it's not permanent acquisition. Um, those those claims are likely to be relatively low, sir.

00:28:34:19 - 00:29:13:27

Um, uh, and while, um, it's a mix of debt and equity, there are no concerns raised, um, that we wouldn't be able to obtain finance for the construction, operation and decommissioning of the proposed development. Uh, it's Macquarie Group are, um, a significant, um, institution, and they've got experience in developing projects in the UK on this basis. Okay. It might also be worth, um, so article 46 of the DCO, um, ensures that there will be sufficient funding in place for any compensation claims.

00:29:25:27 - 00:29:44:19

And can you just elaborate a little on on how? How you would be satisfied that the funding would be sufficient ultimately for the decommissioning at the end of the project? I have heard a lot through written sort of relevant representations of potential concerns, and we did hear a little bit about that yesterday at the open floor hearing.

00:29:44:26 - 00:30:04:12

Yes, sir. Catherine Tracy for the applicant. Uh, so decommissioning is, um, is governed by the decommissioning, um, requirement. But in terms of funds available, the applicant is required to ensure that the landowner is in funds. Um. Is it?

00:30:06:20 - 00:30:33:09

Yeah. From year ten of operation, um, under the terms of the option agreements, because Ultimately, the liability for for decommissioning rests with the landowner. Um, so there is security in place already through the voluntary agreements to ensure that that will be the case. Um, in the event that whoever is operating the solar farm, if they

00:30:34:24 - 00:30:47:04

didn't decommission, the landowners, would have sufficient funds to decommission. And the costs of decommissioning are relatively, um, or comparatively, I suppose, lower than than constructing.

00:30:48:00 - 00:30:50:25

Okay, so so where is that secure? Can you just, um.

00:30:51:00 - 00:31:04:25

That that is in the land agreements. So, um, which are not obviously secured in the DCO, but let me check the dis, the decommissioning requirement.

00:31:07:19 - 00:31:17:25

Because we often see them secured as part of the decommissioning requirements in order to demonstrate that there's sufficient funding in place or a funding plan.

00:31:24:15 - 00:31:25:08

It's not in this one.

00:31:36:05 - 00:31:50:24

I don't think it's expressly stated. Isn't being needed to be included in this dump. Okay. If that was a concern, we we can do that so that at the time of decommissioning, it's clear how that would be funded.

00:31:50:28 - 00:32:09:19

My my initial view is that would be helpful. And it would just provide the clarity and certainty because it you know, it's a matter of I need to consider, but I'm, I'm, I'm conscious it is one that's been, um, been raised. So if we can have that as an action that you'll consider. So would that be an amendment to how would you would you suggest.

00:32:09:23 - 00:32:25:17

I will I'll have a look at it It'll either be an amendment to the requirements or more likely, actually an amendment to the dump itself, because the dump is setting out the structure for what will be, um, included within the dump when we get there. Yeah.

00:32:28:01 - 00:32:37:13

And that would be that. So that's going to explicitly ensure that the operator has to make sure that the landowner has sufficient funds for decommissioning.

00:32:37:15 - 00:33:08:00

Yeah. I think the way I would envisage it is that it would be for the Undertaker to demonstrate in the dump to the local planning authority that there is funding secured for decommissioning at that point, and whether that be um, because while the landowners will be in funds, if the operator is there, the operator may well be saying it's us, don't you know? Um, if not, then the operator may well be saying, well, it's it's the landowners, so it will, I think we don't want to specify exactly what that needs to look like now.

00:33:08:02 - 00:33:17:28

It's just that as part of the discharge of the damp. Um, that would be something the, um, the undertaker needs to demonstrate to the local planning authority. Okay.

00:33:20:21 - 00:33:29:27

And what can you just remind me at what point in the process the the dam is submitted to the council for their ultimate approval.

00:33:50:27 - 00:33:52:12

Prior to decommissioning, sir?

00:33:52:14 - 00:34:01:07

Prior to the commissioner? Yeah, but you were saying earlier that. That. No, it's normal that it would be about ten years in that this needs.

00:34:01:29 - 00:34:22:11

It would be ten years in that the, um, the applicant is required to put the landowner in funds for any decommissioning. Um, a decommissioning plan would not usually be done until 12 to 24 months before the end of the 40 year operating period, which.

00:34:22:13 - 00:34:37:22

I can understand makes sense on the basis that you need to respond to the conditions at the at the time. So to to agree a decommissioning plan 30 years before is not not sensible, but it just just leaves me with a slight worry. Then if, if

00:34:39:10 - 00:35:10:08

if ultimately that the landowner funding is secured, well, he's only secured in the sense of the the council being satisfied at the end of the life of the towards the end of the life of the project. But yet the landowners obligation obligations ought to be that with after ten years there's sufficient funds. I just think, is it necessary that we there is a means by which it is it is certain that that has that has been done. And.

00:35:18:07 - 00:35:25:14

Uh, so, uh, Mrs. Lodge is just going to respond in terms of what's been agreed with the landowners in the voluntary agreements.

00:35:30:19 - 00:36:04:26

Kirstie Lodge and So Energy, the applicant. I just thought it'd be useful just to give you a bit of background on how that works from a landowner, um, perspective. So within our options that we have secured with the landowners of the solar land, um, a bond will be in place from year ten with the amount determined by a suitably qualified expert. The bond is reviewed periodically and can be called upon by the landowner should the operating company cease to exist.

00:36:05:15 - 00:36:50:05

Um, and there's no other entity to take on the asset so that that's kind of secured. Now, it isn't that that bond kind of is done on year ten. It does get periodic periodically reviewed after that. And that's appropriate because we're looking at a 40 year lifetime here. So they're behind planning. There is very much an obligation as part of our legal agreements with our landowners to ensure that suitable funds are provided, um, to the land for access for the landowner, um, in a situation where that should occur, um, that that is quite normal within option options with landowners for this sort of scheme.

00:36:50:28 - 00:36:56:11

Um, and hopefully that just sort of gives you a bit of background as to as to how that works. Yeah, I.

00:36:56:13 - 00:37:02:27

Mean, that is helpful just in order for me to just understand how the process works, I think I think from my perspective, it's just then

00:37:04:16 - 00:37:23:27

Because the landowner agreements on but aren't part of the application. I don't see them necessarily. Yes. Just how do I have the certainty to be able to report on this issue that that actually funding for decommissioning is, is appropriately dealt with if I'm in that situation.

00:37:24:11 - 00:37:55:18

Uh, Catherine Tracy for the applicant. Uh, yes. If it would assist, we could add, um, an element to the DCL. Have to think about where appropriately it needs to go. Um, that we could notify the council that the bond is in place. Um, because that once it is there, it is secured. It's obliged to be there. I don't think it's necessary for, um, any comfort necessarily to be in place prior to that ten year point.

00:37:55:20 - 00:38:04:05

But from there on, there is a bond. And I should imagine the review is partly that it steps up at the nearer you get to actually decommissioning to ensure that the funds are there.

00:38:04:07 - 00:38:22:23

Yeah. And presumably the review is to ensure that the funds are sufficient taking into account inflation, etc.. Yeah. Okay. I think then the action needs to be that you need to go in and then just work out the best, the best means of addressing that in the DCO and then come back to me. And in terms of a timescale for that action, what's your your thoughts.

00:38:24:09 - 00:38:25:14

Could we do that for D2?

00:38:25:16 - 00:38:27:13

Sir that's fine I think at this stage, yes.

00:38:35:05 - 00:38:56:21

Okay. So, so I think in terms of B I mean I think we've, we've largely covered the, the points and I, I want to deal with um, I just, I guess just on the kind of further identified item, just to just have a bit of clarity that,

00:38:58:11 - 00:39:12:07

that you have sufficient certainty that the ultimate liability couldn't grow beyond what funding you are able to or to secure. Just in terms of like in terms of compensation that that that wouldn't.

00:39:13:24 - 00:39:15:16

Well, well, uh.

00:39:16:03 - 00:39:46:15

I think the way that's dealt with, sir, is that, um, we are the applicant is, um, backed by an organization that has sufficiently deep pockets to be able to cover whatever compensation liability arises. It is it is nigh on impossible for an applicant to act, um, to accurately put a figure on that, because it compensation is based on the detriment suffered by the person whose rights you're affecting.

00:39:46:17 - 00:40:18:00

And until they tell you what that is, uh, we can make educated guesses and put an estimate around it, which is what we've done. But you you can't quantify that without it being a two way conversation. So, um, the comfort that we offer is that we are backed by Macquarie Group. Their audited accounts are attached to the back of the funding statement. Um, it is, you know, multi-billion pound entity.

00:40:18:02 - 00:40:43:25

So and the, the, the type of interest that we are looking to acquire compulsorily if any are, are not in that scale. Um, so far as we are aware, uh, and you have article 46, which ensures that at the point that we exercise that there's sufficient, um, security in place and the Secretary of state has to decide that. Okay.

00:40:44:27 - 00:41:10:21

Thank you. Okay. Thank you. Um, yeah. So then if we just move on to the final item on this, on, on this part of the agenda. So item C, so the question whether there is a compelling case in the in the public interest for the acquisition of the compulsory acquisition of rights and the temporary possession. So again, if I could just ask that the applicant just explain their position on on this matter, please.

00:41:12:25 - 00:41:50:12

Yes, sir. Catherine Tracey for the applicant. Um, again, that's set out in the statement of reasons, sir, but, um, ultimately the, um, we're taking, uh, predominantly underground subsurface rights, uh, that won't unduly impact landowners, um, or burden their land unnecessarily. Uh, and we are a renewable energy development that has been classed as a critical national priority, um, in as a need, uh, which has to be given significant weight in the process when considered against the the potential impacts on individuals.

00:41:50:27 - 00:42:05:11

Uh, and that that is all detailed in the, in the statement of reasons. And we are not aware that there is, um, any individual. Right, that, um, would override the, the need for renewable energy at this time.

00:42:05:17 - 00:42:06:16

Okay. Thank you.



00:42:14:00 - 00:42:48:17

Okay. If we can move on, then to agenda item five. Um, dealing with the statutory undertakers. Um, I think it's probably best to. We just take the two individual items together. Um, we could just could it could explain the current position. Um, and really, I think ultimately what I would like to, to understand is, is where, where we're at in terms of negotiations. And I appreciate we had a brief conversation about this at the preliminary meeting in terms of what if, if any statements of common ground are likely to come forward from the statutory undertakers, which may not happen.

00:42:48:19 - 00:43:03:05

But then just I think at this stage, I just want to understand how you're approaching that where where you're at and then moving forward. What? What can I see to give me the comfort that that the negotiations are moving in the right direction?

00:43:10:01 - 00:43:41:17

Yes, sir. Catherine Tracy for the applicant. So we've got, um, a few parties with whom we are, um, statutory undertakers, at least that we are in negotiations with at the moment. We are talking to, um, uh, so the Environment Agency will have, uh, protected provisions, but they're not a statutory undertaker in the sense of compulsory acquisition powers. Uh, so, uh, Network Rail, we are, uh, in discussions with them at the moment.

00:43:41:19 - 00:43:59:14

We think there's been a misunderstanding about, um, the extent of their interest. So we're not envisaging protective provisions being needed at this stage. We are talking to lawyers for Network Rail.

00:44:01:01 - 00:44:21:21

Um, and we can update you as that progresses. But I, I'm hopeful that where we'll get to sir there is actually they can just withdraw their objection. Um, because the part of the railway that we are going under is, is a private railway owned by Drax, rather than a Network Rail railway. Um, we have um.

00:44:22:03 - 00:44:45:12

And just just to be clear on that, so is it your view that because because I, I just I did not actually want to clarify that the railway you're going under is Drax. So that that's helpful to be absolutely clear on. But then in terms of the Network Rail, um, assets, is it that your, your view is that the development is sufficiently distant from their land that it will not have a direct effect?

00:44:45:23 - 00:45:20:05

Yes, sir. We are not affecting Network Rail's operational network. Um, what? I think it has transpired is that they may also have a right of access across Drax land to their railway. Um, and we're in discussions with them explaining that our, our compulsory acquisition powers don't extinguish theirs because we can all co-exist together. So I think they're just working that through it. Their end. Okay. Um, and then that will, um, hopefully, uh, be able to be resolved in writing.

00:45:20:07 - 00:45:55:26

So I'm not envisaging either a statement of common ground will be necessary there. So, um, we have uh, the other, the other three national gas transmission in Jet and Northern Powergrid. Um, we are in discussions with as well, um, with, um, anticipating some level of protective provisions being agreed. Uh, it's very early stages and, um, but all parties have contacted us and we are in the process of talking to their lawyers and getting those discussions underway.

00:45:56:08 - 00:46:28:21

However, the applicant has done an awful lot on the technical side with each of the undertakers. So we are we're moving through the process as opposed to legals coming at it and the undertakers being cold to what's what's proposed. And this is where predominately where we're crossing infrastructure of theirs. So again we're not affecting with the exception of the substation where we're connecting in. Uh, we're not affecting, um, substations or taking operational assets. We're we're crossing an operational gas pipeline.

00:46:28:23 - 00:46:36:01

So we just need to work through that process. Yes. So we can update you at deadline too. So I'm, I'm hopeful that

00:46:37:18 - 00:47:08:04

the agreement of protective provisions will be fairly swift, which would then negate the need for any statement of common ground to explain where we're at. However, I think if we if we go past, um, probably deadline three four, and we're not moving as quickly as I think we should move. It might be at that point that we begin to ask the undertakers to agree a position with us to formally update you on where we're at. But it really is.

00:47:08:06 - 00:47:14:18

The legwork has been done by the applicant on a technical level, and we are really in the process of just documenting what has been agreed.

00:47:15:00 - 00:47:16:08

Okay. Thank you.

00:47:25:20 - 00:47:37:05

And I guess, could you just, um, also explain just the position in respect of the council as, as highway authority and in, in terms of dealing with, with them?

00:47:39:29 - 00:48:25:09

Uh, yes, sir. I mean, we're beginning discussions with the councillors highway authority. Um, They've they've had the opportunity to review the book of reference now. And they are in it a lot in terms of being the highway authority. Uh, so we will work through that with them. I think it's too early to say at the moment. Um, but I envisage an agreement being able to be reached on the approach. But the book of reference enables us or sorry, the compulsory acquisition powers enable us to, to take rights to, to cross highways and to lay the cable in a couple of highways, create some site entrances, um, and then connect into the grid at the other end as well.

00:48:25:18 - 00:48:26:22

Okay. Thank you.

00:48:27:24 - 00:48:29:05

Do you want to? Yes, please.

00:48:31:08 - 00:49:08:05

Michael Reynolds, North Ayrshire Council that is the only point really, that where there's a potential sticking point. But we've been through lots of DCS. We recognise the powers that are granted in DCS, not just in terms of compulsory acquisition, but in terms of the other articles that are in the DCO, as a rule, what we need to do is sit down with the applicant, go through all the powers that they expect to use, where and when, so that we understand actually on a map what those are and whether or not there's any further work that needs to be done, um, in terms of temporary possession, etc..

00:49:09:18 - 00:49:40:09

Applicants, developers take possession of the highway, but they do so under severe controls. Um, and so it's just making sure that the applicant knows what the controls need to be and making sure that they're in the right control documents, whether it's the construction traffic management plan or whatever it is. And obviously, just blanket possession of highways is very dangerous. So we need to just make sure that the controls are there. We've never had any any real issue with it.

00:49:40:11 - 00:50:06:28

It's just we need to understand exactly what will happen, what how they intend to carry it out, making sure that that works with what our local highways teams processes are. Uh, we're here today really to set up what the next round of meetings is. Yeah. Um, that's the big one. That's the the day long, horrible meeting that we have to have, um, which we hope to do in the new year, and then we'll be able to report back that hopefully that everything's okay. Okay.

00:50:07:00 - 00:50:13:06

Thank you. That's really helpful to be to understand that. And I appreciate that that is being worked through. Thank you.

00:50:16:29 - 00:50:18:07

Okay. Um.

00:50:20:25 - 00:50:41:02

So I think the only I guess in terms of that, the action, the action point is that by deadline two, then you'll update on where you where you progress with the statutory and take negotiations. And then we take it from there. If they fit, if it doesn't, doesn't go as swiftly as you're hoping.

00:50:41:21 - 00:50:50:25

Yes, sir. That would be appreciated. I think if we spend time now trying to agree statements of common ground, it takes away from actually negotiating the peace, which will resolve the issue. Okay.

00:50:50:27 - 00:50:51:12

Thank you.

00:50:53:08 - 00:50:53:23

Okay.

00:50:58:05 - 00:51:24:26

Right. Okay then. So just moving on then to agenda item six. Um, so we do need to consider any implications for the Human Rights Act and then and the public sector equality duty. So again, I'd just like the applicant to kind of talk through the approach. And I'm happy for you to take them together if you think that works better. But or, or or you separate them out. But just yeah in this in this case how you how you've done that. Yeah.

00:51:24:28 - 00:52:03:05

Catherine Tracy for the applicant, sir. Um, I might take them separately because the, uh, human rights issues are considered in the statement of reasons. Uh, paragraph 11. Uh, sorry. Section 11. Um, in in this case, We are not acquiring individuals homes or, um, dispossessing people of their property outright. We're just taking additional rights. So again, we we consider that, um, there is no infringement to people's human rights that is, uh, should be should outweigh the need for the development and the public benefits that that will bring.

00:52:03:18 - 00:52:38:17

Um, so we do consider that there is a case, um, that we've addressed those and there isn't that case, um, in, in respect of, um, the public sector equality duty. So, um, that doesn't apply to us as a developer, but I appreciate it does apply to the Secretary of State in determining the application. So, um, what we say, though is, um, we our scheme does not, um, adversely impact or disproportionately impact people with protected characteristics in any, any way.

00:52:38:28 - 00:52:55:16

Um, so that should be satisfied. And then the way that the application is being examined through Pins is very much in compliance with the equality duty. So we don't have an assessment on it per se because it it doesn't it doesn't bite us.

00:52:55:18 - 00:53:15:04

Okay. Yes, I appreciate that. But I need to be in a position to to report on it. So obviously understanding and sending your your view on that is of assistance okay. Thank you. Right. So we've moved swiftly through the agenda. So on to item seven. I,

00:53:16:25 - 00:54:09:27

I do want to raise one matter that we discussed a little bit at the preliminary meeting is about potential for a land rights tracker. Um, and I just want to explore whether that is necessary in this case, given what I've heard from you at the preliminary meeting and then today. And I appreciate within the statement of reasons. We have table one, which as I indicated, the PM. It's helpful and clear. And and I think the addition to that that would potentially be helpful, but it might not be particularly relevant in this case is is is where any of the affected persons and if the landowners had had written in as relevant reps, or if they do so in the future, actually, you know, participate in the examination directly that that is logged because it just helps me follow through any issues.

00:54:10:16 - 00:54:26:16

But in this case, I don't want to create work for the sake of it. And so just just to clarify, so all of the landowners, can you be clear where you because I know you said that you've agreed. And I just want to understand exactly what you mean by that.

00:54:26:18 - 00:54:56:19

Yes, sir. So, so, um, the solar array areas, um, and the cable, the T cable corridor, all of that. All of the the land, I suppose, within the highway, the two major highways. That is all under option. Agreement. Secured. Signed, completed. Uh, the Drax plots of land are um, we have instructed solicitors. So the heads of terms and everything have been agreed.

00:54:56:22 - 00:55:27:10

Uh, I believe Drax of this morning instructed their solicitors as well. So that is going into, um, voluntary agreement but isn't there yet. Um, and then the national grid access and substation is again in legals. Um, and that has progressed to that stage six, which is the final stage of the process with agreeing an easement with a national grid. Uh, and so that is, um, again, it's that the deal has been done.

00:55:27:12 - 00:55:29:00

It is documenting it. Okay.

00:55:29:29 - 00:55:51:15

I mean, I mean, in which case, I think I think I probably won't then in terms of making a A procedural decision to ask for land rights tracker. But I think what I would ask is that that that table in in the statement reasons is updated and submitted at appropriate points, which I do not think needs to be at every single deadline. Um, but

00:55:53:01 - 00:56:08:11

I, I wonder if we could, if we could try to reach agreement. Let me just on, on where would be obviously the final version will come in at will have to come in at deadline nine anyway. But but I do think a probably an interim.

00:56:11:01 - 00:56:15:27

Would it be helpful for us to submit that AD3 sir, before you do your written questions.

00:56:15:29 - 00:56:38:11

Probably because and if yeah I understand the progress. Yes. And then yes. So if we say um an updated table one in the statement of reasons. And I think the other thing I'd ask is, is if any, if we do get any correspondence from the affected persons into the examination that that is noted in the table one. It just helps me to cross refer. Yes, sir.

00:56:38:22 - 00:56:39:22

I don't believe there are.

00:56:39:24 - 00:56:40:12

I don't think.

00:56:40:14 - 00:56:46:16

So. Which is representations to date and we're not expecting any either. So. But if they do. But if they did, then we will.

00:56:46:21 - 00:56:47:06

Yes.

00:57:04:24 - 00:57:05:17

Okay. Thank you.

00:57:10:17 - 00:57:30:22

So before I, I mean essentially I think we've, we've, we've covered what I need to do. But before I close I do just want to check with the council. Is there anything else at this stage you want to say. No. Okay. Thank you. So that's helpful. I think what that means is there's likely to be some follow up in terms of first written questions on matters of compulsory acquisition.

00:57:32:24 - 00:58:08:03

If we have no requests for specific to hearings to do of individual rights, then we are in a position where it could well be that we have no further commission acquisition hearings. Um, because because I think from what I've heard today, I should be able to follow up in writing, and then it will only be if if we have an effective person asking for one, then then we obviously will have to have to hold it. So that's I think that's where we are at. Um, and then is are you clear, everyone clear on actions which are limited in this case.

00:58:10:15 - 00:58:25:14

Yeah. Okay. I've got a note of them too. So thank you. Okay. So so thank you everybody. That's been helpful I appreciate it's been short but but helpful. Um, so I want to thank the case team and the audio visual team as well. Um, and this hearing is now closed.