

AUDIO_Bramford_CAH1_Session1_081123

Wed, Nov 08, 2023 3:04PM • 1:19:10

00:03

compulsory acquisition hearing for the Bramford twin standard reinforcement and the hearing is now open. Before we begin, can I confirm everybody can hear me? nod from the back. Can we also confirm that the live streaming the recording is Thank you.

00:19

Today's hearing will be dealing with compulsory acquisition and temporary possession matters in relation to the application for an order granting development consent for the Bramford. To to instead of reinforcement project made by national grid electricity transmission, Mission PLC, we will be referring to as the applicant.

00:39

My name is Andrew Martin, and I've been appointed by the Secretary of State to be the lead member of this examining authority.

00:47

I have a background in ecology and environmental impact assessment. And I'm a chartered environmentalist and a chartered landscape architect.

00:54

Today I'll be going through the management of the event and taking any notes of actions. Can I now ask my colleagues to introduce themselves?

01:04

Good morning. I'm Julie de Courcey. And I'm a charter time planner. I have a background in appellate work, including major infrastructure projects and the examination of local development plans.

01:21

Hello, and good morning. I'm Jason roelens. I'm a chartered civil engineer and a chartered environmentalist.

01:32

Have the background in major projects for energy and highways.

01:38

Good morning. I'm John McAvoy. I'm a chartered civil engineer, I have a background in major projects and local authority, highways and transport.

01:48

Thank you. Together we constitute the examining authority for this application. And following the examination we will be reporting to the Secretary of State for energy security and net zero with a recommendation as to whether the development consent order should be made.

02:04

We have several colleagues from the planning Inspectorate with us today. Having Jones who's at the back is standing in for Jake Stevens who's the case manager for this project. And He is accompanied today by Jess Weatherby and Shana shoreland is assisting online participants. If you have any general questions about the examination process, please email them to the case team will be happy to help. Alternatively, if you're in the room today, you might be able to catch up with them in person during or following the hearing.

02:34

Can I first just deal with a few housekeeping matters? Can I make the usual request pleased to switch off audible notifications for electronic devices?

02:43

And could the participants who are online as well as those around the table. Please remember to switch off your microphones unless you are speaking helps to reduce background noise. Those online should also switch off their cameras unless they wish to speak.

03:01

I've had no requests for any special measures or arrangements to enable participation in this hearing. But can I just confirm this is correct.

03:11

I don't hear any requests so we'll move on.

03:14

And for those of us in the room, there are no fire alarm tests due today. So it's the real thing if the fire alarm sounds, there's two fire exits in the room one to my right through the corridor in which we arrived and one behind me to my left in the far corner, we should assemble in the center of the main carpark park outside the main door of the hotel.

03:36

And there are toilets opposite the end of the corridor that you walked along on your way into the room today.

03:43

We will adjourn for short breaks and convenient points use it at least once every hour or an hour and a half or so. But if any reason anybody requires an urgent break at a specific time, please let the case team no and we will accommodate you if possible.

03:59

If you are joining us virtually on Microsoft Teams, please note the chat function is not in use. So please do not use it to try and send any messages.

04:08

If at any point in the meeting you cannot hear us or you wish to speak, please use the raised hand function

04:14

and turn your camera on.

04:17

There may sometimes be a delay before we can acknowledge it, but we will come to you as soon as possible.

04:24

For those who are watching the live stream, can I also advise you that should we adjourn proceedings at any point. Or if we have a technology glitch, we may have to stop the live stream to give us clear recording files. If so, you'll need to refresh your browser page to view the restarted live stream at the point at which we recommence the meeting.

04:47

For identification and for the benefit of those who may listen to the recording later. Could I ask that all speakers whether in the room or online, give your name and if appropriate, who you're representing, at any time at every point in which

05:00

to speak. For those present in the room, please ensure you speak into a microphone to ensure that your contribution is properly recorded.

05:09

Does anybody have any questions or concerns about the technology or the general management of today's event?

05:17

I don't see any indications. So we're going to move on to a short piece about the digital recording that's happening today.

05:24

It's quite important that you take note of this, this is the formal record of proceedings and it will be published on the project page of the national infrastructure website. It will be the only official record of today's proceedings, tweets blogs, similar communications arising out of this meeting will not be accepted as evidence in the examination of this application.

05:48

So if you take part today in this hearing, it is important you understand that your contribution will be fast a formal record that will be published and retained, usually for a period of five years from the Secretary of State's decision.

06:03

Planning inspectorate is subject to the General Data Protection Regulation. Therefore, the examining authority would ask you not to put sensitive personal information into the public domain. Indeed, we actively encourage you not to do so. So please, anybody who is speaking today, do not make any reference to personal information, such as your address, your email address, or your personal or family circumstances, including economic, financial, cultural or health related matters.

06:34

We do understand this sometimes difficult to avoid this especially in relation to compulsory acquisition matters. So if you do feel that you need to make reference to sensitive personal information, we would encourage you in the first instance to speak individually to the case team. They can then explore with you whether the information can be provided in written format, which can then be appropriately redacted before being published. And I can reassure you that any written evidence you provide will carry exactly the same weight as the oral evidence you give today.

07:10

Moving on to the hearing, the hearing will follow the agenda which we published on the Bramford twinset Project webpage of the national infrastructure planning website on the 27th of October 2023.

07:22

It's also available in the examination Library Reference Evie dash O 24. It will be helpful for you to have a copy of that agenda to hand.

07:33

However, the agenda is for guidance only. And we may add other considerations or issues as we progress.

07:41

We will conclude the hearing when we have asked all of our questions and each has been responded to while we consider that all relevant contributions have been made.

07:50

If the discussions cannot be concluded this morning, for whatever reason, it may be necessary for us to prioritize the matters and defer others to further written questions, or a possible future second compulsory acquisition hearing.

08:06

Similarly, if you feel that you cannot answer the question being asked or require time to collate the information that we request from you, then we would be content for you to indicate that and to follow up in writing a deadline for which is the 16th of November 2023.

08:24

I'll explain in more detail the purpose of this hearing and agenda and agenda item two. But in summary, today's hearing is to hear from the applicant about its proposals for compulsory acquisition and temporary possession and to hear from parties with an interest in land that might be affected by these proposals, who we will refer to as affected persons.

08:46

The Planning Act 2008 makes specific provisions that section 92 For affected persons to request and participate in a compulsory acquisition hearing. And each has a right to be heard in relation to their interest in land.

09:01

We have notified all affected persons about this compulsory acquisition hearing and given them an opportunity to be heard.

09:10

On final important point, before I asked today's speakers to introduce themselves, I must stress that we are unable to take any evidence from affected persons that relates to the nature or amount of compensation that might follow from any compulsory acquisition of land or any interest in it. Any future disagreement or consideration about the individual level of compensation is for a very different process and jurisdiction.

09:37

So if we can move on to the parties that are I do understand requested to speak today there may be some variation. My list is the applicant, Suffolk County Council, Simon Gilby of brown and on behalf of the knots training as dp notton sons Belinda littler from land partners on behalf of Mr. PJ not good

10:00

stencil for pivoted power LLP and potentially somebody from Shepherd and Wedderburn on behalf of East Anglia three limited.

10:09

Is there anybody else present today or online? Who are affected persons who do wish to speak to that I've not just listed?

10:19

Like again, no indication so we can move on.

10:23

Okay, can I now ask those of you who are participating in today's meeting to introduce yourselves. When I state your organization's name? Could you introduce yourself state, your name and who you represent? And could you please also indicate how you wish to be addressed for example, Mr. Mrs. Miss or miss?

10:43

Can we start with the applicant and its advisors please?

10:47

Good morning, sir. My name is Miss Rebecca Clutton The Lutten. OB counsel. I appear on behalf of the applicant. I'm instructed by James Parker Bryan Cave, Leighton Paisner solicitors the applicant, Mr. Parker appears on my left. And there are a number of other parties who will be speaking today, but I'll introduce those at the relevant Mo. Thank you. Excuse my voice as well as slightly croaky today.

11:17

James Parker, Mr. James Parker, Bryan Cave, Leighton Paisner instructing solicitors on behalf of the applicant. Good morning, morning.

11:29

And the rest you'll introduce Hugo, thank you. Can we move on to any local authorities that are with us this morning? Do we have representatives from Suffolk County Council?

11:40

Thank you, sir. Yes. Michael Bedford Kings Council for Suffolk County Council. Mr is adequate for my purpose anything's adequate for my purpose.

11:52

I'm joined by Mr. Graham Gunby, who is the national infrastructure planning manager for Suffolk County Council. So we're not here as an affected person. We are obviously a host local authority. We're really here to observe rather than to actively participate in the agenda items or compulsory acquisition hearing one, but we did know that your agenda, as it were pro forma had indicated that you would welcome attendance by the county council. So we're here to assist if we can do but we don't actually think we've got anything specific. We need to bring to your attention. Thank you, Miss Beth.

12:35

Do we have any other local authority representatives present?

12:40

Now I don't think send me is online.

12:44

Oh, yes, we do. Oh, yeah. That's Curtis.

12:49

Good morning. Yes. Brian Curtis, principal Planning Officer for mid Suffolk District Council and baby District Council. Much the same as Suffolk County Council. I'm just here to observe this morning. Thank you.

13:02

Thank you.

13:05

And anybody from the ethics councils?

13:11

Okay, can we move on in that case?

13:15

Other talk Can we hear from the affected persons are the representatives who have expressed a wish to speak? And do we have Mr. Gilby?

13:26

Yes. My name is Simon Gilby. I'm representing Mr. GVS. Not who is one of the affected parties. And I'm joined here today by Belinda littler. Well obviously introduce

13:41

that Good morning. Mrs. Belinda littler representing PISA not.

13:48

Thank you both.

13:51

Do we have Mr. Silk on behalf of pivoted power?

13:55

You? Yes. Mr. Christian silk on behalf of 50 Pamela LLP. We wouldn't be making any representations today. We'll just be observing on behalf of our client. Thank you.

14:09

Do we have anybody from Shetland Wedderburn on behalf of East Anglia with us?

14:18

Okay, thank you. Is that anybody else here as an affected party who wishes to speak on behalf of an affected party who wishes to speak?

14:29

Thank you. And is there anybody else? Who is going to speak today?

14:35

That completes the list. So I will move on to agenda item two.

14:42

Appendix B to the agenda that we sent out, sets out the purpose of this compulsory acquisition hearing. And I do refer you to that for more detail if you require it. We will be examining today the application for compulsory acquisition rights in the context of the powers provided by the Planning Act 2008

15:00

specifically sections 122 and 123 are linked to that legislation is available on the main national infrastructure planning website of the planning Inspectorate. But in brief, we will need to test and advise the Secretary of State on whether the Landon rights as a sort are required to build or facilitate the proposed development or relate to the necessary replacement land.

15:25

Whether there's a compelling case in the public interest for the land or rights to be acquired compulsorily,

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and that what is sought is legitimate, necessary, reasonable and proportionate.

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They will also be mindful of the advice set out by the government in his 2013 publication, Planning Act 2008 guidance related to procedures for the compulsory acquisition of land, which is also available from a link in the guidance section of the main national infrastructure planning website.

15:56

deliberations and decisions will also be guided by the relevant human rights legislation, including the European Convention on Human Rights Article Six, eight and 14 and first protocol Article One,

16:09

while considering whether to recommend or allow the application for compulsory acquisition powers both way and the Secretary of State will take great care to weigh any interference with human rights against the public interest sociated with the benefits of the proposed development, and ensure that any interference is considered both necessary and proportionate.

16:33

It's for the applicant to demonstrate as all of the proposed compulsory acquisition positive six are justified within this framework, that all reasonable alternatives to compulsory acquisition have been explored, and that there is a reasonable prospect of it having the funds available to supplement any compulsory acquisition rights that may ultimately be granted by the Secretary of State in the time allowed within any development consent order that might be made.

17:02

While there is a clear and obvious link between our examination of the proposed development itself, and our examination of the application for compulsory acquisition rights, the two are tested on their own merits according to the case, and was our ultimate recommendation to this Secretary of State. It is possible that development consent could be granted, but not son or any of the requested compulsory acquisition powers.

17:29

We will form a view over the full course of the examination on each of the requests for compulsory acquisition powers, and whether there's a compelling case in the public interest, and not just on the submissions and evidence to the put to us today.

17:43

Finally, can I stress that the focus of this hearing is explicitly on the proposed compulsory acquisition we temporary possession powers and specific parcels of land or legal interests in parcels of land. And we will not be taking any submissions or evidence on any other aspects of the proposed development itself, including its merits or wider concerns.

18:06

Simulate just to remind you again, we cannot take any evidence on the quantum of compensation that may be sought or awarded to any individual affected person

18:16

or the application of a compensation code as this is strictly outside the scope of our Terms of Reference.

18:24

Are there any questions on the purpose of this hearing?

18:30

Okay, not seeing any hands. Then we will turn to Item three on the agenda, which is the applicants case for compulsory acquisition and temporary possession. And I'm going to hand over to Mr. corsi to deal with that.

18:43

Thank you, Mr. Chairman.

18:46

We asked a number of written questions on the applicants case for compulsory acquisition and temporary possession at the first set of written questions. I don't intend to repeat these here. But I would like to begin by asking the applicant to briefly present and justify its case for compulsory acquisition, and temporary possession. In doing so please explain how the proposals address the stops tree and policy tests under the Planning Act 2008. And the Department for Communities and Local Government published guidance and titled Planning Act 2008 procedures for the compulsory acquisition of land.

19:30

I'll refer to this document as the dclg guidance.

19:36

The agenda has listed a number of bullet points under item two, which the applicant should succinctly address.

19:46

I won't repeat these at the outset as I'm sure Miss Kelton that it's something that you will

19:54

introduce at each subsection. So I'll hand over to you at the stage to hear

20:00

For me on that subject, thank you. Thank you, Madam Rebecca platinum for the applicant. The starting point here is that national grid needs the land and rights that are necessary to construct, operate, maintain, and mitigate the effect.

20:18

project I've been sought over the audit land enable it to do that. But those powers fall into broadly three categories. We have the compulsory acquisition of land, the compulsory acquisition of rights.

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And then temporary possession, which is not itself a power compulsory acquisition, but it is obviously a related power.

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across those three different categories, the applicant has included eight classes of REITs in the land. And those are summarized in statement of reasons at table 5.1. That's a PP 038 Won't propose to take you through those unless that would be helpful.

20:57

In relation to classes one to six of those, they are also subject to subordinate classes of rights. So, for example, where someone is able to utilize class one rights power to compulsorily acquire land, there are lesser categories of rights that they may also be able to acquire. And those have been described again, clearly in the book of reference, which is rep 3013. And that's at table 2.1. And, of course, the purpose of that is to ensure that the minimum interference with land and land rights that are actually required can be taken at the relevant time.

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powers have been acquired for the benefit of both the applicant and by UK PN in respect of the authorized development and for UK pn, the UK PN works,

21:45

dealing them with the relevant provisions that that covers the purpose of the power assault, dealing with the relevant provisions, those powers providing for possession or acquisition of land are contained in part five of the draft DCO, latest version of which is rep 3007. And those are split into four parts we have within part five, we've got powers of acquisition, that deals with the acquisition of land rights, and subsoil and airspace, the temporary use of land, which is for like national grid itself, you KPN and then also the maintenance of the authorized development.

22:25

It just worth noting in relation to those because of some of the issues that have been raised by affected persons, that in most cases that were powers of temporary possession have been utilized, there is an obligation on the

22:38

to reinstate or, or the undertaker to reinstate land, to the reasonable satisfaction of the landowner.

22:45

The remaining parts of Part Five relate to compensation and then obviously supplementary provisions dealing with for example, implementation of the powers powers to override easements and such.

22:58

Again, at full details of those are given in the statement of reasons at section three, and also in the expanded three memorandum.

23:07

Turning then to the how the relevant tests are met, and unless of course, it'd be of assistance to look at any particular provisions if you find it helpful. But otherwise, again, thank you Mandy.

23:17

Turning to the relevant, then obviously, the principal test for the justification of compulsory acquisition powers are contained in Section 122 of the 2008

23:26

Act. And in summary, they require that the land is required for all to facilitate what was incidental to or is replacement land in relation to development to which the the DCI relates and it also provides or places on a statutory footing the test that there be a compelling case in the public interest.

23:46

That test is supported, obviously, by the dclg guidance to which you've made reference, which in the DCO context, makes clear that the demonstration of a compelling case will also include consideration of the need for the land, that the power source are necessary and proportionate, that there are no reasonable alternatives to compulsory acquisition, and also that there is an absence of impediments in particular, having got the reasonable prospect of funding for the compulsory acquisition of land and quite claims to be available.

24:17

In outline, then the applicants case in relation to the compelling case in in the present case the need for the project is established, both in the relevant MPs and five and are set out in the new case in the planning statement. And fundamentally, that comprises the urgent national need to deliver a reliable and secure transport reliable and secure transmission system that can cope with all the demands of that have been placed on it going forward. And also of course, the contribute to the achievement of net zero and energy security through facilitating the delivery of up to 50 gigs of offshore wind by 2030.

24:56

The fact that all of the land that is required is free.

25:00

quad for the project is made clear both in the book of reference, and also in appendix A to the statement of reasons which is a pp 039. And that describes in detail the intended use of each plot, and sets out the DCO number work work numbers to which they relate as well, of course of the classes, right, that are engaged.

25:20

But it's noted that the project does as is standard in these kinds of cases, apply limits of deviation. And those do provide some flexibility as to the siting or routing, ultimate siting or routing of the development. And that does mean that ultimately it may not be necessary to acquire all of the land that's within your permits. That does not mean however, that that land is not necessary for the project. That is what is required at this stage if the flexibility needed to ensure that the project can be constructed and is not obstructed by any unforeseen situation was on the ground, is to be delivered.

25:59

As the examining authority be aware, the proportionality of any interference is addressed through the cascade approach to the acquisition of land rights and the use of temporary possession.

26:13

And I'm going to come on then to

26:18

alternate Well, I'm going to come on to alternatives in a minute. But essentially, the scale and the location of the project is such that compulsory acquisition cannot be avoided. The minimum intervention that's been necessary to deliver the project has been set set selected through the routing and siting process. And of course, National Grid always looks to avoid compulsory acquisition through reaching voluntary agreement. And I can present you with an update on where we are with data that will be helpful in an in a little while

26:48

dealing with the last point about impediments. Recently, the examining authority has the funding statement for the project, which has now been supplemented through our responses to your written

question your first round of written questions, and that makes it very clear that the funds will be available to meet the approximate 26 million pounds abandoned and acquisition costs, and that the funds are available to deal with any blight claims that might arise.

27:11

Just dealing quickly with some of the other statutory tests related to compulsory acquisition that needs to be met. We have section 123 of the Planning Act 2008, which identifies the land to which compulsory acquisition, in addition to may relate, and in this case, we're relying on the subsection that provides all necessary land subjects compulsory acquisition has been included in the application, which we're confident it has.

27:37

We then also have a section one to seven engaged in this case, where there's a proposal to acquire rights in statutory undertakers land. And, as you'll be aware, where there is an outstanding objection from a statutory Undertaker, a compulsory acquisition and will only be authorized where the Secretary of State is satisfied that no serious detriment arises. And in this case, national grid of the applicant is satisfied that no serious detriment will arise for for two reasons. Firstly, there has been the minimization of any interfaces with such infrastructure and assets

28:13

at the project routing stage, and then further there is the imposition on the face of the order of the generic first of all the generic protective provisions contained in shedule, 14. And then also, the bespoke provisions that have been agreed, for example, with Anglian Water, and those that are currently underway, and whom we'll hear later, but good progress is being made in relation to all of those, and we're in short, confident that really agreement should be able to be reached before the close of examination.

28:45

A similar rationale will also justify the interference with any statutory undertakers rights and apparatus under Section 138. As you'll be aware, that provision only allows interference with statutory undertakers rights where that's necessary for the project. And the same points I've just made apply there.

29:04

The final point to note

29:08

relates to schedule category land. Obviously, you have in Appendix C to the statement of case, our assessment of the special category land affected by this project is very limited, it's limited to open space only in this case. And some of those indeed have included on a precautionary basis rather than because we're aware of them actually being used for the purposes of public recreation. In all cases, the applicants position is that acquisition without special parliamentary proceedings can proceed and should proceed, because the land Wennberg with the rights that we're seeking will be no less advantageous to us as. And that's reflective of both the fact that electricity infrastructure is already

present in those areas, and also that the use of the land will not be compromised by the presence of any infrastructure that the applicant will construct.

30:00

pursued to the DCI

30:03

and you are the examining authority, you've asked a question in part as part one of the matters that you would like to see covered as part of this particular agenda item about the strategy that national grid has adopted in relation to the

30:21

whether to how to whether to seek powers or compulsory acquisition of land. And at a very high level, of course, the starting point is that we will always look for the lowest possible level of interference. And that's subject to the need for us to ensure both sufficiently secure and

30:41

appropriate legal rights have an appropriate duration. So obviously, you'll be aware of some discussion about whether waves or easements are appropriate. And if that's something we'll be likely to come to at some point, I'm sure we can. But ultimately, we have to make sure this is essential national infrastructure in the national trade, we have to make sure that we have sufficiently secure rights to enable the continued operation and maintenance of that infrastructure.

31:10

So we will, we'll take freehold REITs, but only in respect of the physical infrastructure for substations and cable sealing and compounds, and any associated mitigation plan around that. And that's reflected in the very limited number of parcels which freehold acquisition has been sought. In this case, for all of the remainder of the development, we look only for the compulsory acquisition of rights. Now, in relation to accesses and biodiversity land for biodiversity net gain, again, we also seek

31:46

rights rather than temporary possession there. Because again, what we need to ensure is that there is deliverability in the first place, but also particularly in the case of accesses, that if during a later stage of the project, we need to reinstate an access for the purposes of maintaining the land that we can do. So a no doubt, that's an issue that we'll come to when we're dealing with some of the affected persons representations slightly later on in the agenda.

32:14

At finally, then I said, I'd come back to alternatives. And I think that the first the thing to note really in relation to this, first of all, is that alternatives comprise

32:28

both alternatives to the project in the first instance, then alternative routes, once the app has been identified that there is a need for the project. And then we look at alternatives to compulsory acquisition.

Now in this case, plainly, we're in a situation where there is a critical national need for the reinforcement of the transmission infrastructure in this region, and it has been determined that there is no alternative to the project in relation to alternative routes, that has been considered extensively both at the strategic opportune airing stage. And on an ongoing basis as we've been challenged by through the Presidential free consultation process, we are now settled on a route that is regarded as being a reasonably direct and efficient route that minimizes impacts on third parties, but also balances national brands, other obligations in terms of economy efficiency, and as well, of course of its environmental obligations.

33:29

In relation to alternatives to compulsory acquisition,

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really, that's addressed through both the cascade approach that we've previously described in terms of seeking to take the lowest order, right that possibly can, and then also, principally through achieving voluntary settlement rather than having to rely on the powers of compulsory acquisition that are in the order. Ultimately, it's just worth noting as well, that even in relation to temporary possession is not a compulsory acquisition Parcel. But even in relation to that, if we don't need to actually take possession of all of the land, the order does make provision for lesser interference, for example, through rights to survey. So we were again, even in that instance, we will look to take the lowest order measure of interference with the land.

34:19

So that's everything I think we've got to say in relation to item one, would it would it in this context, just be helpful to have an indication of where we are with

34:31

the voluntary settlement or voluntary agreements process or would you like to say that relator agenda item

34:39

as Clinton, it was certainly be useful, but I think maybe if we just put it on the back burner for now, because I think there are probably people quite anxious to have their say on specific instances. So thank you for that. There's just one point that I wanted to follow up on. And that was

35:00

I think in regard to the the first bullet point that you dealt with, where you mentioned in respect of temporary possession, that there's an obligation on the undertaker to reinstate land to the reasonable satisfaction of the landowners. And that gives rise to just two points that I'd like your assistance with the definition of reasonable satisfaction. And is there any sort of adjudication process if the land owner isn't entirely content with the reinstatement method, timing excetera. That's been proposed. Thank you, Rebecca, traveling for the applicant. Yes, madam, in relation to first of all, your first point about the definition of reasonable satisfaction, there is obviously no definition within the DCO itself, that is a matter. That is for the land owner. Obviously, there may be disputes that are capable of arising about

that. But this is, as I'm sure the examining authority will be very familiar with. This is a term that is well used well precedented within GCOS. And it is it means it means what it says it's the reasonable satisfaction of landowner and reasonable is judged objectively by the standards of the individual reasonable person. To the extent that any disputes do arise, the order itself, you'll be aware, contains in

36:32

article 59, a provision for arbitration of disputes. And that's one of the means through which one would hope that before it ever came to that, that it would be resolved between the parties through negotiation and both parties acting reasonably on side. But in the event that formal proceedings are unnecessary, the DC DCO makes provision for arbitration itself.

37:00

Thank you Miss glutinous useful just to have that on the table as we progress into more site specific matters.

37:12

In the applicants comments on relative representations that was submitted at deadline one, and that was rep one, zero 25, your thematic comments 13 considered options and routing, the temporary access route of the a 131. And the final paragraph on page 30 of that document, it gave an overview of the nature of land rights sought and how they can be exercised. And then Section six, three of your deadline submission, the technical note on the temporary access route of the a 131. And that was a deadline three, it was rep 3053 is also noted as not everyone here are watching may have read those submissions or just be mindful of them in the context of the current proceedings. Could you give a brief preview of the right soft and the proposed haul road leading from the a 131 to the proposed stir volley, West cable ceiling and compound. And in doing so I'd be grateful if you take a count of the following three points.

38:29

Firstly, reference to temporary whole route when rights of compulsory acquisition rather than temporary possession are being sought. I know that you were very careful in your introductory submission to make a distinction between the two. But I think in this particular context, it's led to confusion and consternation. So it would be helpful if you could address that issue and specify what Temporary means in that particular context. Secondly, it it also be useful if you could explain that the proposed powers in the draft development consent order that you might exercise to access affected Party slammed on a subsequent occasion or occasions if the cable ceiling and compound were built, and access was subsequently needed for repair, and in doing so can you address the issue of notice periods, please?

39:30

And lastly, when would the temporary whole root access road be removed? And what mechanism is there in the draft development consent order to enforce this? I know that's quite a lot of this anything that you want me to review happy to do so. Otherwise, I'll hand over to you madam Rebecca clutton for the applicant. I missed your third one. I'm afraid I was just checking a point with Mr. Parker. Okay. So when

40:00

Would the temporary haul route be removed?

40:05

And what mechanism is there in the draft development consent order to enforce its removal?

40:31

Rebecca clap for the applicant, madam, thank you for that. Yes. So we understand where this confusion has arisen.

40:41

The proposal is to have a temporary haul road. And in this context I'm using temporary in the physical sense. So they went during the construction auction phase, a haul road will be constructed. And once that construction phase is over, it will be removed, I'll come back to the point about mechanisms securing that in due course. So it is temporary in the sense that the whole road will go down, it will be used for construction and it will come up. However, the rights that will be secured by national grid in order to enable the delivery of that whole road will be permanent rights of access, they will be underclass two of the things class to

41:25

just double check that.

41:29

But forgive me, it's all that literally goes quite well. Yes, that's like class four, which is compulsory acquisition of rights for access. That's article 24, of blue land. So the reason for that is,

41:43

is obviously this, the temporary haul road is being used to construct part of the authorized development, some of the cable works, there is a potential as unlikely, but there's a potential that at some future stage, that there may be works of repair or maintenance that are necessary in relation to that infrastructure once constructed. And in that eventuality, it will be necessary for national grid or the undertaker to be able to access those works. Again, the likelihood is that if that situation arose that it would be necessary to access it, your potential for it to be accessed using the same means as it was originally. So what National Grid do in these circumstances in order to ensure certainty of its ability to access its infrastructure for those purposes in due course, is acquire a permanent right of access. That means that it can go back at a later stage and reinstate that whole road or parts of it to whatever extent is necessary in order to carry out the repair or maintenance of its infrastructure. I think as I say, as is emphasized in the documents that have been produced them to which he made reference earlier, that is not an anticipated outcome. It's not necessarily likely, but it is a potential issue. And if it does arise, then though the access would be required. So that is why we're taking a permanent right of access in relation to a temporary haul road.

43:16

Now, in relation to notice periods and how that secured, because what we will be doing is acquiring a permanent write

43:27

any notice periods that would apply would be those that had been safe, we've managed to occur, and by voluntary agreement, it would be those that was set out in relation to it well within the voluntary agreement that had been concluded.

43:52

Yeah.

44:01

Mr. Bokka, just indicated to me as well, that the understanding is that the heads of terms that are going out at the moment do make provision for that to make clear that in the event that we're required to reinstate that access road in due course, that it won't be the case that we just turned up on announced, obviously, unless there's some sort of emergency, but appropriate notice periods will be given. But as I say, at that point, we will have a permanent right of access, and so it's not governed by particular notice period. For example, some of the notice periods set out in relation to temporary possession under the order.

44:32

That

44:34

is also that that point also deals with the question of mechanisms for removal. The draft DCO does not itself contain an explicit mechanism that requires the removal of the access road at the point at which construction is ceased, however,

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in relation to the authorized works and shedule one

44:59

access road

45:00

is only enabled is only permitted to be there for the purposes of constructing the authorized works unless it's carrying out maintenance later. And so if it was retained by the applicant after or by the undertaker after that point in time, it would be being retained are ultra vires and it is subject to an excess of powers by by the Undertaker and so would be unlawful.

45:26

Hopefully my deals with all those points. Thank you, Mrs. Clinton was just I'm going to come back to the

45:35

issue of emergency use at a later agenda item. But I sincerely hope that voluntary agreements are reached, but in the

45:50

possible with the possibility in mind that they may not be and that you do have to rely on powers of compulsory acquisition? Well, then what would the provision be for the notice periods for the exercise of those powers?

46:37

Rebecca clapping for the applicant, madam, thank you for that.

46:42

Because at the point at which the right had been acquired, it would we would just best the right there would be no specific obligation on national grid on the on the undertaker to wait any particular

46:57

to provide any particular notice now, in practice,

47:03

national grid has to have ongoing relationships with people whose interests in land are affected. And it would not be consistent with its corporate practice to just turn up out of the blue. What I can say is that if the examining authority thinks it will be of assistance, we can take away that point and look at what if any company that we can provide for you around that?

47:31

I certainly take the applicant up on that offer. I know that we'll hear from affected parties representatives. But certainly, if that were included, it may give them some additional measure of comfort. That I'm sure would be welcome.

47:52

Thank you very much, Madam, we'll take that point away, then. Thank you, Mr. Mom, I believe that you have a contribution. Sorry, don't want to belabor the point but could ask a couple of follow up questions for the benefit of those listening as much as anything else.

48:08

You talked about potential maintenance and temporary or new repairs to the cable ceiling and compound potentially needing the reinstatement of the temporary haul road? Would that be for any type of maintenance? Or can you give us some indication of what level of repairs that would necessitate for reinstatement of the whole road and I appreciate you probably need the assistance from on your team to do that.

48:31

Rebecca Cullen for the African video, I'm just going to identify the correct person for you sir.

48:46

Rebecca clutton for the applicants

48:49

my suspicion had been has been confirmed, which is just that the the sorts of works that will be for which the the accessway will be required to be reinstated will be very substantial

49:01

works of repair or maintenance kind of getting close to complete rebuild of those items, it wouldn't be for routine maintenance, it would really have to be something that was akin to the actual construction works themselves, I think all works of that magnitude. Okay. Thank you. And the second really was just a reassurance.

49:21

So those would be affected if that did occur. So if it was necessary to reinstate that ball road, there will be appropriate compensation available again to the landowners involved.

49:52

Rebecca clap and for the applicant, sir, certainly in respect of those voluntary agreements, compensation provision

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rim would be included within that, in relation to

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in relation to the company, if a compulsory right has to be acquired, then the compensation that is, obviously there's a time limit on the

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payment or upon the claim of compensation for that six years. However,

50:22

the compensation that will be payable or the rightful for the right having been acquired, would take account of the fact that, that right could be exercised in the future. And so typically compensation for those rights is undertaken on the basis of the diminution in the value of the land as a consequence of the acquisition of the right. And if the right includes the potential for future reinstatement of of that Alright, then that will be wrapped up in the capital, some that will be received by way of compensation at that time. Okay, thank you. Hopefully, that makes it a bit a bit clearer to any of the affected persons that are listening.

51:03

Thank you, Mr. Man. And also for the benefit of affected persons listening. I do have subsequent associated questions, and a later agenda item just in case that they they feel that we're not giving it sufficient attention at this stage.

51:22

Thank you. My question is for the affected parties with interests in land that would be affected by rights associated with the proposed temporary haul route. Whilst you may not agree with the rights that the applicant is seeking in your land, and you will get to address the reasons why in the next agenda item? Can I ask if you're not clear on the nature of the rights that the applicant is seeking to acquire? Or is there any clarification or further information that you would like from them at this stage? So I'll hand it over to any of the affected persons. Mr. O'Brien

52:17

from Branko sorry, GBS not

52:21

a thank you for the questions that have been asked so far, they do go towards answering some of the queries that we have. However, there is still a

52:33

we're not still clear that what we're being asked or what our clients are being asked to sign up to, in terms of a voluntary agreement doesn't point a chord with what is now being asked or what is being stated for the applicant. In terms of the rights that they require. Specifically, we understand the temporary nature, we understand that they want to come on and that they want across the land, and that when they've done that, they'll then reinstate the land, and they'll probably bring it back into agricultural production, that side is fine. It's the subsequent return, because we've had it outlined to us that this in this discussion today that this is if they had to do very substantive works. But what we've had in terms of voluntary in terms of correspondence in terms of discussions, is that they could return for maintenance works or in an emergency. And the suggestion arising from that is that when they returned to do that, it could be on as little as much as little as 28 days notice or less.

53:42

And our concern is that as part of this process, and as part of the lead up to this there have the national grid, the applicant have had to go through a number of hurdles, ecology, etc, to define their route, and to define the way that they're going to put in the whole road to minimize the impact of the land. If they coming back in an emergency, I can foresee a situation based on other examples that I could provide. Were for the sake of argument, a temporary haul road was installed, such as metal trackway, and that on clay soils in a wet period could well result again in the liquification of the soil itself and the damage to the land drains coupled to that with very short notice periods. Our clients will obviously have sown crops in the autumn and again we'll find and yes compensation will be payable under the compensation code for disturbance arising from this, but it is this constant battle backwards and forwards with when will they come we need greater definition of exactly what will

55:00

trigger a requirement to come back onto the land. And equally, if that requirements is triggered, what form of haul road is it proposed will be constructed.

55:12

Belinda, did you want to add anything to that?

55:15

Mrs. littler? Please note now I think Sonia and I sat here and discuss these issues. And I think his comments there reflect my client's position to.

55:26

Okay, thank you both for that

55:31

was Clinton if I can hear from you. And then I think a series of questions that I had parked for later agenda item, I think the way the discussion is evolving, it would be aren't an artificial distinction to do so. And I think I'll deal with them here. But certainly, if there's any points that you want to make in response, please do. Yes, Rebecca flatland for the applicant. But you'll appreciate the difficulty that the applicant is faced with here is that it's dealing with an unknown quantity, we at this stage,

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we

56:04

hope and expect that the equipment will not fail. But we don't know. And if it does fail, we don't know how it will fail, or what remedial works will be required. We're also potentially talking about position quite a long time in the future, we don't know what technologies will exist to deal with those failures at the time, whatever they may be. And so because of that we cannot know now, we cannot say with any degree of certainty, precisely when we might need to access the land. Again, we cannot say

56:42

whether all or part of the access row would need to be reinstated, it would depend on the specific circumstances that arose at the time of the asset, failure or disrepair. And so that is why that is why we're unable to provide the the assurance that the affected persons are looking for in relation to notice periods. Those are matters that are obviously subject to discussion between the parties in the context, the heads of terms at the moment, but when the 28 day period, I think 14 days is what has been discussed 14 days and 28 days are under discussion at the moment

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when 28 days, so 28 days is what's under discussion at the moment. That obviously exceeds the periods that are set out or temporary possession for example,

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in in the statutory provisions. And so

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we consider that to be a a normal and pretty standard period of time. But that said those matters are subject to ongoing discussions.

58:01

Rebecca planned for the applicant. Just to add to that, I understand that 28 days is the period of notice that we've indicated for using the route within the heads of terms, but that three month period is proposed where we are having to rebuild that route. So there is a lengthier lead in time for that.

58:20

Just so that I can be clear, Miss clutton That's in the voluntary agreements, rather than any provision in the draft development consent order, which I know that you have helpfully

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offered to review.

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Rebecca Clem to the applicant? Yes, madam. That's correct. That is that is the position. And obviously, that's one of the benefits of of the heads of terms is that we're able to

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accommodate a wider range of considerations within that.

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And then, some question.

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No, would it be envisaged that it would take to reconstruct the whole route

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rebeccablack for the applicant, Madam, what I'm just going to ask is that I think for the purposes of these questions, it might be necessary to have see what other people at the table so I just wonder if perhaps you could give an indication,

59:16

the scope of the questions and then I can make sure that I've got the right people up at the front. I want to know that the length of time as I say for for reconstruction,

59:27

about whether full spec for the old row would be required in every instance. Does the DCO provide for any associated safeguard? Is there a definition of what would constitute an emergency and then comparable experience from delivery of similar projects?

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Let me just check any scope for consultation with affected parties in

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Such a situation?

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Yes, that's the main points I want to cover.

1:00:08

Rebecca Clanton for the applicant. Welcome. Thank you for that indication that's helpful. At what I'm going to do is ask Mr. Rob fielding to join us. Here we go. Mr. Field and who I think you'll recall from the previous issue specific hearing, is the lead engineering project manager for the applicant. And I'm going to ask him to address you on those questions about the technical matters. Thank you,

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Rob building from the app.

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Could you just repeat the questions for me? Of course, I wanted to know Mr. failed in an emergency, how long would it take to reconstruct the whole route your approximation?

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It's very difficult to determine the type of emergency a number of emergencies we may not even need to construct the whole route.

1:01:00

It all depends. If it's a fault, joined by if it's a full section of cable that needs to be replaced, it's very difficult. A lot of those emergency scenarios would not actually require a whole road to be reconstructed.

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If we were to have to replace all lengths of cable, I would imagine that guys would install 50 to 80 meters of Hallward a day roughly.

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And would the I think you've probably indicated the answer to this, would the draft development consent order give the applicant the right to use the whole road? Save in the case of an emergency without its reconstruction to the full spec that we're looking at? For the initial construction?

1:01:58

So that is Rebecca, that's probably not. That's probably not a question for Mr. Mr. field. And so just to recap on that question, Madam Sorry, that was about the whether the draft DCO

1:02:12

whether it gives the applicant the right to use the whole route, save in the case of an emergency without its reconstruction, to the initial construction specification? Fine. We will just have a look at that point. I'm going to come back to your earlier points about the safeguards, which is whilst Mr. Parker's and looking at that point, in terms of any safeguards in the draft DCO, again, because this, the situation that we're contemplating here is that the the applicant has had to vest, a permanent right of access in the draft DCO will not contain any particular safeguards about the length of the length of time at which that might take to reinstate or, in particular specifications. Those are all matters that will be in the discretion of the undertaker within the scope of the right of access that it had.

1:03:07

My understanding for Mr. Bell is that the heads of terms that have been in discussion at the moment, don't make any particular provision, either for consultation or defined circumstances when when an emergency might be regarded as arising. Those are not matters which the applicant has considered it necessary to focus on, because this is a matter that's considered to be unlikely to arise. And really, the focus of the heads of terms is on ensuring that the land is reinstated.

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If that eventuality arises, I think we're also not aware of any particular provisions in that regard having been

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promoted or suggested by the parties but obviously if in the context of those discussions, those suggestions were to be made and obviously we will give due consideration to them.

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Madam it, Rebecca clapping for the applicant, I don't think we have anything further that we're able to, to add on that point. Really, I mean, this is so it goes. It goes back to the point that if we hadn't managed to secure a voluntary agreement, whereas this a we're able to be much more subtle about what matters go into that, we are in a situation where we are requiring a bear right under the under the under the DCO through which

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Add

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in such a situation then with no definition of what constitutes an emergency.

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Would there be?

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First of all, would there be alternatives to rebuild? What would the alternatives be to rebuilding a temporary haul road? I know, it's probably difficult to pin it down because it would depend on the nature

of the on defined emergency. But certainly from Mr. Gilbert's initial submission, that was the point that was exercising the affected parties

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to rob Field National Grid. So

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under an emergency situation where we lose power on one of the circuits and are unable to re energize that circuit without rectifying that fault,

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we would look to

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sorry, can you repeat your question? Oh, gosh, sorry.

1:06:04

We're in this situation. Let's say that there is no voluntary agreement. And we don't have a definition of an emergency within the draft development consent order? What would the alternatives be to reconstruction of the road to the full spec, and because there's an indication that there wouldn't be consultation with the landowners. And I know that that is a particular point that that Mr. Gilby, has already raised this morning. So any information that you can give both the the authority and the affected parties would be useful to Federal Building national grid. So we will look to see if the equipment required to rectify the fault could use the local road network. If that's sufficient, that would be the way we would like to proceed.

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If we can't get

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vehicles or equipment via the local road network, then we would look to utilize alternatives across land, and the road would be designed to be sufficient to take the equipment required to rectify the fault.

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Rebecca, clap for the applicant. Madam, can I just come come in on that, I just want to pick up on a point that you made about that.

1:07:37

There's no proposal for consultation. I don't think that's quite right. What the applicant is saying is that if it is in a situation where it has had to compulsorily acquire a right pursuant to the TCO, it will then have a permanent right of access, and the scope of that right is not constrained, it is just able to utilize that right of access for the purposes for which it was acquired. It's not the case that the applicant wouldn't propose to do any consultation. Of course, the point that I made at the outset was that national grid has to have ongoing relationships with the people who are affected by it by the by the rights that it acquires.

It wants to have good relationships with those, it wouldn't in the course of its ordinary business practice, just turn up on announced. But what the point that I'm making is that there will be no provision within the DCO that will govern consultation, it's certainly not the case that national grid would wouldn't look to discuss with the landowner what was going to happen in advance of it happening, it's just that it would ultimately be able to rely on its legal right. In the event of being able to unable unable to reach an accommodation on that point. I just wanted to make that clear. Thank you, Miss Clinton. Again, we're coming back to the point that you're going to review subsequent to this proceeding. So I think that probably underlines the importance of it.

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And wanted to know, then, based on the applicants experience in delivering other projects, could you give any advice or comfort to affected parties on the likely frequency of emergency use of the whole road without its full reinstatement?

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And

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they've also expressed concern that the whole road could be left in situ then indefinitely? And what mechanism would be proposed in the development consent order for its timely removal and reinstatement? So there's two points there, I'd be grateful for your help on rebuilding National Grid. I'll try and answer your first point.

1:09:54

In 13 years, I've worked on National Grid I've never had to enact the emergency powers to get in

1:10:00

into rectify a fault.

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We've got numerous projects all across the country, Dorset VIP Hinkley. All of these projects have cable sections in them with haul roads and and access routes

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on those projects, and they are removed afterwards. I don't I'm not aware of any of those who have had to reinstate those under a fault condition.

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And then the second point, which is the team was going to address that please.

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Rebecca, clap all the applicant, Madam in relation to

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mechanisms to ensure the removal of that temporary access road. Again, because the right that's being acquired the class for right is is a bear right. There is no specific right for the landowner to call for its reinstatement. What I would say, though, is that National Grid's

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intention is to remove that once it has exhausted its need to use it for construction purposes. That's what's been assessed within the environmental statement and national group would have no,

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no reason or desire to keep it in place for any longer than it needs to be.

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Because again, the position may be different under any voluntary settlement that's achieved, because that would be subject to the terms that had been agreed.

1:11:38

Okay, thank you for that. Miss Clinton. Mr. Gilby, you've been patient for a while if you'd like to, to join us and make your comment, please.

1:11:50

Hi, sorry. It's Belinda littler on Mr. Kelly's computer.

1:11:55

Can I just clarify, if an event happens in 25 years time, there is no requirement on the applicant to undertake any surveys. And just so I'm clear on how the power of the DCO does that Trump anything if if a badge is now living there, that obviously the report hasn't found any evidence at this particular time, but in an unknown point in the future? Is there no requirement for any assessment of the environment at that point?

1:12:32

Thank you, Mrs. littler, I'll ask Miss Clinton to address I'll please, Rebecca, and for the admin. Thank you, Madam if I just take some instructions to two seconds by all means?

1:13:09

With apologies, could I just signed up for for Mr. GVS? Not Could I just add one further query to this because there is a difference? Finds land and the knots land on resistor guildie. Could I could I just hold you for a minute, I think let's give the applicant a chance to respond to Mrs. Lip do littler is particular concern and then I'll happily return to you.

1:13:35

Yes, Rebecca clutton for the applicant, thank you for that, Madam, I'm just dealing with that point about what required in the future, obviously, National Grid, or the applicant does have the right to maintain its authorized development under the development consent order. And so that would be you know, future future maintenance

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would be covered by the scope of this DCO. In relation to matters such as protected species, of course, that would be governed by whatever the prevailing environmental legislation was at the time to use the example of badgers. They're obviously very specific requirements about what you can and can't do in terms of disturbing badgers and their sets. And the applicant would be required to would be required to comply with that legislation at the time, less bit less to commit an offence, so it would have to undertake whatever surveys or other actions were necessary to ensure that it complied with the relevant legislation and perspective on protected species employed place at that time.

1:14:41

Thank you, Miss Clinton.

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Mr. Gilby, do you want to make your point in it, please?

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Thank you. It's a related point. Could the applicant confirm definitively whether or not they have undertaken environment

1:15:00

multiple surveys. And by that I don't mean desktop exercises, I mean, on the ground environmental surveys of my clients land, because there is a suspicion from my client that this has not been undertaken. And in the context of the discussions that we're currently having a confirmation that the applicant would have to

1:15:23

be wary of protected species. I would be grateful for clarity, please, on that point.

1:15:29

Mr. Gilby, we're straying out of the current compulsory acquisition hearing and into the remit of the SU specific hearing for that will be held tomorrow afternoon. The issue of surface is something that particularly exercise the examining authority at the preliminary meeting that preceded us actually

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going to the examination stage that we're at at the minute, and it has been subject of extensive extensive questioning at

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the first written questions, and there is a wealth of evidence before the examination on that point. So certainly, if there are related matters to environmental statement, the adequacy of it, the the matters that you've raised with relating to the survey evidence, I'd suggest that tomorrow afternoon issue specific hearing for even though it is related to your concerns about compulsory acquisition, I would suggest that that's the appropriate forum for you to enter those, if you want to avail of that opportunity.

1:16:42

Thank you and noted. Thank you.

1:16:51

Does anyone else have any other general points that they want to raise on the applicants case for compulsory acquisition and temporary possession? Bearing in mind that the next agenda item is going to return to the issue of the whole route?

1:17:17

Just bear with me please.

1:17:24

Okay, I have no indication. So that's all the questions that I have for this agenda item. So I'll move on to the next one, which deals with site specific representations from persons who may be affected by the compulsory acquisition provisions in the draft development consent order. So at the outset

1:17:59

Okay, actually, I think it's probably an opportune time just to have a short break. Mr. Gilby, just before we do so, if you want to

1:18:13

if you want to appraise yourself of the latest situation with regard to the queries that you were raising and advance of tomorrow afternoons, issues specific hearing for if you have a look at a s, that's Alpha Sierra 005 as 005 on that the project page on the national infrastructure website, hopefully that that homework should give you a good grounding in the situation that will be discussed tomorrow. So thank you, everybody, to for your assistance to date. If we just take a five minute break, and reconvene, say at 1125 Thank you