



Bramford to Twinstead Reinforcement

Agenda for Compulsory Acquisition Hearing 2

Topic	Compulsory Acquisition and Temporary Possession matters
Date	13 December 2023
Time	09.30am
Venue	<p>Virtual hearing held online through Microsoft Teams (instructions on how to join online or by telephone will be provided in advance to those who have pre-registered).</p> <p>The virtual room opens at 9.00am for those participating online.</p> <p>Join between 9.00am and 9.15am to enter the virtual lobby. From here you will be admitted to the Arrangements Conference, greeted and given further instructions. The Arrangements Conference will be hosted at 9.15am by the Case Team. It will cover housekeeping arrangements for those participating online and answer any questions about taking part.</p>
Attendees	<p>All registered Affected Persons and Interested Parties are welcome to attend. Those Affected Persons wishing to make oral representations should register with the case team as soon as possible.</p> <p>(Email bramfordtotwinstead@planninginspectorate.gov.uk or call 0303 444 5000.)</p> <p>The Examining Authority would be assisted by the attendance of the following, and would be grateful for confirmation of attendees:</p> <ul style="list-style-type: none">• The Applicant• Essex County Council• Suffolk County Council• Babergh District Council• Mid Suffolk District Council• Braintree District Council• Individual Affected Persons listed in the Applicant's Book of Reference• Anglian Water Services Ltd• Cadent Gas Limited• Addleshaw Goddard LLP on behalf of Network Rail Infrastructure Ltd• Foot Anstey LLP on behalf of Pivoted Power LLP• East Anglia One OFTO Ltd. <p>Could all participants please read Annexes A and B to this agenda before joining the Hearing.</p>

Agenda for Compulsory Acquisition Hearing 2

09.30am	Examining Authority opens the Hearing.
Item 1	Welcome , preliminary matters, introductions, and the order in which representations will be heard.
Item 2	Purpose of this Compulsory Acquisition Hearing (please read Annexes A and B below in advance).
Item 3	<p>Site-specific representations from Affected Persons (APs) (parties who may be affected by the CA and TP provisions in the dDCO):</p> <ol style="list-style-type: none"> a. The ExA will hear oral representations from APs who have notified a wish to make oral representations at this Hearing and any section 102 PA2008 or Category 3 persons wishing to make oral representations. b. The ExA will invite the Applicant to respond to each representation individually under this Agenda item, in addition to the general and specific updates in Agenda item 4. c. Consideration of Applicant's response to Action Points AP1, AP2 and AP4 arising from Compulsory Acquisition Hearing 1 [REP4-042] and any associated Deadline 5 submissions. d. Points arising from Applicant's Comments on Other Submissions Received at Deadline 3 [REP4-022], Section 3 in respect of Francis Prosser's Deadline 3 submission relating to land rights [AS-008]. e. Any further issues that the ExA may wish to explore, and any points raised by attendees, including those arising from Deadline 5 submissions.
Item 4	<p>Site-specific matters for the Applicant:</p> <ol style="list-style-type: none"> a. The ExA will ask questions of the Applicant and seek updates about negotiations and matters arising from written and oral submissions including, but not limited to the objections listed above, which have not been raised by APs and heard under Agenda item 3. b. Progress of negotiations with Robert Arthur David Cowlin, including consideration of his suggested alternatives [RR-067] and [REP2-036]. c. Applicant's interaction with Mead Farms [RR-041]. d. Applicant's response to Robert Shelley's suggested alternative means of access to the Stour Valley East Sealing End Compound, submitted at Deadline 5. e. Any further issues that the ExA may wish to explore, and any points raised by attendees, including those arising from Deadline 5 submissions.
Item 5	<p>Statutory Undertakers</p> <ol style="list-style-type: none"> a. Applicant's case for PA2008 sections 127 and 138 – the acquisition of Statutory Undertakers' land and the extinguishment of rights and removal of apparatus of Statutory Undertakers. For each Statutory Undertaker present, (where objections have not been withdrawn or Protective Provisions are not agreed), the Applicant to summarise its Deadline 5 stated case whether it considers that the relevant tests for the exercise of powers pursuant to s127 and s138 of the PA2008 would be met in the event that

	<p>agreement is not reached with each Statutory Undertaker, stating whether it is land or rights over land and creation of new rights which are being sought under s127 and whether extinguishment of rights or removal of apparatus are being sought under s138.</p> <p>b. Representations from Statutory Undertakers, including PA2008 sections 127 and 138 – the acquisition of Statutory Undertakers’ land and the extinguishment of rights and removal of apparatus of Statutory Undertakers, and progress on Protective Provisions.</p> <ul style="list-style-type: none"> - The ExA will invite oral representations from the Statutory Undertakers listed below (unless objections have been withdrawn and Protective Provisions agreed). - The ExA will ask the Applicant for response to points made by Statutory Undertakers. - The ExA will wish to explore further any continued areas of disagreement in Protective Provisions. Submissions will be taken from those present in the following order: <ul style="list-style-type: none"> • Anglian Water Services Ltd; • Cadent Gas Limited; • Addleshaw Goddard LLP on behalf of Network Rail; • Foot Anstey LLP on behalf of Pivoted Power LLP; and • East Anglia One OFTO Ltd. - The ExA will ask the Applicant for response to points made by Statutory Undertakers. <p>For those Statutory Undertakers not in attendance, the ExA will ask for an update from the Applicant. The ExA will be keen to understand the likelihood of parties reaching agreement by Deadline 7, noting that is the last deadline before the ExA sets out its commentary on, or proposed schedule of changes to, the dDCO (if required).</p> <p>c. Any further issues that the ExA may wish to explore, and any points raised by attendees, including those arising from Deadline 5 submissions.</p>
Item 6	<p>Policy</p> <p>a. The perceived implications of Section 2.6 ‘Land Rights and Land Interests’ of the draft National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) (November 2023) for the Proposed Development.</p> <p>b. Any further issues that the ExA may wish to explore, and any points raised by attendees, including those arising from Deadline 5 submissions.</p>
Item 7	<p>Human Rights</p> <p>Any issues that the ExA may wish to explore, and any points raised by attendees, including those arising from Deadline 5 submissions.</p>

Item 8	Consideration of duties under the Equalities Act 2010
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	Any issues that the ExA may wish to explore, and any points raised by attendees, including those arising from Deadline 5 submissions.
Item 9	<p>Funding</p> <p>a. Clarification of figure in Applicant's response to ExQ1 [REP3-058], page 28, Question MG1.0.41.</p> <p>b. Any further issues that the ExA may wish to explore, and any points raised by attendees, including those arising from Deadline 5 submissions.</p>
Item 10	Any other business.
Item 11	Review of actions arising.
Item 12	Close of Compulsory Acquisition Hearing 2.

Note that the agenda is provided for general guidance and may be subject to change on the day.

If you simply wish to observe this Hearing, you will be able to:

- view a livestream of the event (a link will be made available on the [project webpage](#) shortly before the event is scheduled to begin); or
- view the recording of the livestream that will be published on the [project webpage](#) shortly after the event has finished.

Annex A

Procedure at Compulsory Acquisition Hearings

Introduction

The Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010 dictate that the Examining Authority presides at a hearing, that it has powers of control over the conduct of a hearing, and that it is responsible for determining the procedure.

The parties that have been requested to attend are listed on page 1 of this agenda. If you wish to participate in the Hearing and have not already confirmed your attendance, please do so as soon as possible by contacting the Case Team on 0303 444 5000 or by email to bramfordtotwinstead@planninginspectorate.gov.uk.

Please ensure that you read the [Privacy Notice](#) before attending the Hearing.

The event will be livestreamed and a link for watching the livestream will be posted on the [project webpage](#) of the National Infrastructure Planning website closer to the Hearing date.

A digital recording will be made of the Hearing as a formal record of proceedings. If you take part, it is important that you understand that the formal record will be published and retained, usually for a period of 5 years from the Secretary of State's decision.

Interested Parties and members of the public who wish to observe the Hearing can watch the livestream, or view and listen to the recording, after it has concluded.

The Planning Inspectorate is subject to the General Data Protection Regulation. During the Hearing, you must not put sensitive personal information into the public domain. Indeed, you are actively encouraged not to do so. Please do not make any reference to personal information such as your home or email address, or your personal or family situation, including economic, financial, cultural or health related matters.

If you feel that reference to sensitive personal information is unavoidable, you are asked to speak individually to the Case Team. They will explore whether the information can be provided in writing, which could then be redacted before it is published. Such written evidence carries the same weight as oral evidence.

In summary, the Hearing is being held 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 are referred to as 'Affected Persons'.

The Planning Act 2008 makes specific provision at 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 interests in land. All Affected Persons have been notified about this Compulsory Acquisition Hearing and have been given an opportunity to be heard.

During this Hearing, the Examining Authority will not be able 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 of any interest in it. Any future disagreement or consideration about the level of individual compensation sits outside this Examination and is for a different process and jurisdiction.

The Examining Authority would recommend any parties who are new to the process and wish to learn more about the background and procedures in hearings to read the Planning Inspectorate's [Advice Note 8.5](#), *The Examination: hearings and site inspections*.

Joining the Hearing

Parties who have registered to attend and invitees will receive an email shortly before the Hearing containing a joining link and telephone number to enable participation. Please join the Arrangements Conference promptly. The Case Team will admit you from the virtual lobby and register your attendance. The Arrangements Conference allows procedures to be explained and will enable the Hearing to start promptly. If you require any special measures or arrangements to enable your participation in the Hearing, please let the Case Team know well in advance.

During the Hearing

Participants may be legally represented if they wish, but the Examining Authority will conduct the Hearing in such a way that legal representation will not be required. The Examining Authority will lead the questioning of parties making oral representations and probe, test and assess the evidence. There is usually no cross-examination of witnesses by other parties, though the Examining Authority does have the power to allow this under certain circumstances.

Short breaks will be taken at convenient points, usually at least once every hour or so. If for any reason you require an urgent break at a specific time, please let the Case Team know and the programme will be adjusted to accommodate you if possible.

To reduce background noise, please mute all audible notifications for electronic devices and switch off your microphone unless speaking. Your camera should also be switched off unless you wish to speak.

Please note the chat function on Microsoft Teams will not in use so please do not try to send any messages. If at any point in the meeting you cannot hear or wish to speak, please use the raised hand function, and turn your camera on. There may be a delay before this is acknowledged, but the Examining Authority will come to you as soon as possible.

For identification and for the benefit of those who may listen to the recording later, all speakers should give their names at every point at which they speak and - if representing an organisation or individual - who it is that you represent.

For those watching the livestream, if the Hearing is adjourned or if there is a technology glitch, you may need to refresh your browser page to view the re-started livestream.

The Hearing will follow this agenda and it would be helpful for you to have a copy to hand. However, the agenda is for guidance only and may be subject to change on the day. The Examining Authority may add other considerations or issues as the Hearing progresses. The Hearing will be concluded when the Examining Authority has asked all of its questions, each has been responded to, and all relevant contributions have been made. If the discussions cannot be concluded for whatever reason, it may be necessary for the Examining Authority to prioritise some matters and defer others.

Documents in the Examination Library will be taken as read and need not be repeated in your oral submission, although signposting to key documents may assist.

If you feel that you cannot answer any question being asked of you, or if you require time to collate the information that is requested, then you can indicate that and follow up in a written submission at Deadline 6 in the Examination Timetable (20 December 2023).

Close of the Hearing

The Hearing will finish when the Examining Authority considers that all matters have been covered and all participants have had an opportunity to make their representations. If there are additional matters to be dealt with, it may be necessary to defer some matters to written questions.

A summary of the evidence presented orally at Compulsory Acquisition Hearing 2 should be included in post-hearing submissions to be submitted by Deadline 6 in the Examination Timetable (20 December 2023).

Annex B

The purpose of this Compulsory Acquisition Hearing

The main purpose of Compulsory Acquisition Hearing 2 is:

- to enable the ExA to inquire into the Applicant's case for Compulsory Acquisition of land or rights over land and to take Temporary Possession of land;
- for the ExA to examine whether the relevant legal and policy tests applicable to Compulsory Acquisition and Temporary Possession proposals have been met;
- to hear any Affected Persons who have requested to speak; and
- to address any related matters.

Other Hearings may also contribute information and evidence that will be used in support of any recommendation in respect of Compulsory Acquisition.

In addition to the documents specified in the Agenda, discussion at the Hearing may be based on the following documents and any associated updates submitted at Deadline 5. Active participants are advised to have an electronic or hard copy of each to hand:

- Book of Reference [REP4-037]
- Statement of Reasons [APP-038]
- Land Plans [REP1-004]
- draft Development Consent Order [REP4-015]
- Explanatory Memorandum [REP4-045]
- Funding Statement [APP-037]
- Special Category Land Plans [APP-009].

The Examining Authority will use the Hearing to examine the application for Compulsory Acquisition rights in the context of the powers provided by the Planning Act 2008, specifically sections 122 and 123. A link to that legislation is available on the main [National Infrastructure Planning website](#) of the Planning Inspectorate. In brief, the Examining Authority will need to test and advise the Secretary of State on:

- whether the land and rights that are sought are required to build or facilitate the Proposed Development, or relate to necessary replacement land;
- whether there is a compelling case in the public interest for the land or rights to be acquired compulsorily;
- and, that what is sought is legitimate, necessary, reasonable and proportionate.

The Examining Authority will also be mindful of the advice set out by the Government in its 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.

The Examining Authority will also be guided by the relevant Human Rights legislation, including the European Convention on Human Rights Articles 6, 8 and 14 and First Protocol Article 1. While considering whether to recommend or allow the application for Compulsory Acquisition powers, both the Examining Authority and the Secretary of State will take great care to weigh any interference with Human Rights against the public interest

associated with the benefits of the Proposed Development and ensure that any interference is considered both necessary and proportionate.

It is for the Applicant to demonstrate that all of the proposed Compulsory Acquisition powers that it seeks 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 implement 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.

While there is a clear and obvious link between the Examination of the Proposed Development itself and the Examination of the application for Compulsory Acquisition rights, the two are tested on their own merits according to the case, and - whatever the ultimate recommendation to the Secretary of State - it is possible that Development Consent could be granted but not some or any of the requested Compulsory Acquisition powers.

The Examining Authority will form a view over the full course of the Examination on each of the requests for Compulsory Acquisition powers and whether there is a compelling case in the public interest, and not just on the submissions and evidence put forward during this Hearing.

The focus of the Hearing is explicitly on the proposed Compulsory Acquisition and Temporary Possession powers and specific parcels of land or legal interests in parcels of land, and the Examining Authority will not take any submissions or evidence on any other aspects of the Proposed Development itself, including its merits or wider concerns.

Similarly, the Examining Authority cannot take any evidence on the quantum of compensation that may be sought or awarded to any individual Affected Person, or the application of the compensation code, as this is strictly outside the scope of the Examination's terms of reference.