

TRANSCRIPT_BRAMFORD_CAH2_SESSION 1_13122023

00:05

Good morning everybody and welcome to the second compulsory acquisition hearing for the Bramford to twin stage reinforcement, the hearing is now open.

00:15

Before we begin, can I confirm that everybody can hear me clearly?

00:22

Yes, sir. Thank you. Can I also confirm with the case team that the live streaming and recording of this event has commenced?

00:34

It has Thank you.

00:38

Well, today's hearing will be dealing with the compulsory acquisition and temporary possession matters in relation to the application for order granting development consent for the Branford to instead reinforcement project made by national grid electricity transmission PLC.

00:56

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

01:03

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

01:12

Today I will be managing the event and taking notes of any actions. I would now like to ask my colleagues to introduce themselves.

01:23

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

01:37

Hello, and good morning. I am Jason Rowland's. I am a chartered civil engineer and the chartered environmentalist. And I have a background in major projects for energy and highways.

01:54

Good morning and John McAvoy and the chartered civil and chartered highways engineer have a background in major projects and local government highways and transport.

02:06

Thank you and 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 net zero with a recommendation as to whether the development consent order should be made.

02:22

There are several colleagues from the planning Inspectorate here today. Jake Stevens is the case manager for the project and he is accompanied by Jess Weatherby and Gina Shoreland.

02:33

If you have any general questions regarding the examination process, please email them to the case team who will be happy to help.

02:41

I'll ask participants who are speaking today to introduce themselves next. But before I do, please remember that a digital recording is being made at this hearing as a formal record of proceedings.

02:54

If you take part it is important that you understand the full record will be published and retained. Usually for a period of five years from the Secretary of State's decision.

03:05

The planning inspectorate is subject to the General Data Protection Regulation. Therefore, the examining authority will not ask you to put sensitive personal information into the public domain. Indeed, we would actively encourage you not to do so. So please, when you speak today do not make any reference to any personal information such as home or email addresses, or personal or family situations, including economic, financial, cultural or health related matters. We do understand it's sometimes difficult to avoid this especially in relation to compulsory acquisition matters. So if you do feel that reference to sensitive personal information is unavoidable. Please speak individually to the case team who can explore whether the information can be provided in a written format to be redacted before publication that will carry the same weight as any oral evidence.

04:01

I'm going to run through the parties that I understand have requested to speak this morning. And as I do so, can you please introduce yourselves in turn?

04:12

Can we start with the applicant and who's representing the applicant this morning, please?

04:16

Yes. Good morning, sir. Hopefully you can see me and hear me that my name is Miss Rebecca Clutton on counsel for the applicant that I'm joined today by Mr. Todd White Berg. Brian Bryan Cave, Leighton pays nose solicitors for the applicant. And then to my left, I've got some of the witnesses who will be you'll be hearing from today but I'll introduce those at the relevant points in the agenda.

04:44

Thank you, Miss Clinton and welcome.

04:47

Can we move on to Braintree District Council please? Mr. Wilders this morning.

04:54

Good morning, sir. Good morning panel. Yeah, Matthew Wilde, charter town planner for Braintree district council

05:00

So I'm not intending to say too much today. But yeah, happy to chip in as necessary. Thank you. Mona Lisa. Well, and we have Ms. Curtis for mid Suffolk and Babor. District Councils.

05:14

Melissa Yes, bronchitis principal Planning Officer for MITSUBA, District Council and baby District Council, not intending to speak, but I'm available if there are any questions through the council or any action points. Thank you. Thank you very much, Miss Curtis. That's all I have on my list at the moment. Is there anybody else present who's expecting to participate this morning?

05:36

I don't hear or see anything else. So that is our full list.

05:41

Thank you all on Welcome to the hearings morning. I hope everyone has had the opportunity to read annexes a&b to our agenda prior to joining today. This will avoid me having to go through our usual rather lengthy introduction in full now. And I can see that we are in very experienced company this morning. So I I'm correct in thinking everyone is experienced in these types of hearings or have been with us before. So I am going to move straight on to the event management.

06:15

No requests have been made for any special measures or arrangements to enable participation in this hearing to my knowledge. But can I just confirm that this is correct?

06:26

I can hear no requests. Just for those watching the live stream? Can I advise you that? Should we adjourn at any point. Or indeed 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.

06:52

This hearing will follow the agenda published on the Bramford to two instead project page of the national infrastructure planning website on the fifth of December 2023.

07:02

That agenda is also available in our examination library at reference EV zero 28. And it would be helpful for you to have a copy of that agenda to hand.

07:15

Are there any other comments anybody wishes to make under agenda item one?

07:22

Nothing rose there. So I'll move on to agenda item two, which is the purpose of this compulsory acquisition hearing.

07:30

Alex's A and B to the agenda set out the format and purpose of this compulsory acquisition hearing. And I would refer you to those annexes. For more detail.

07:41

We will be examining the application for compulsory acquisition rights in the context of the powers provided by the Planning Act 2008. And specifically sections 122 and 123. Guided by the relevant human rights legislation,

07:58

we 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 to us today.

08:13

So are there any questions on the purpose of this hearing?

08:18

Nothing is reraised. So I'll move on to Agenda Item three on the agenda, which is site specific representations from affected persons. Now I'll hand over to Mr. corsi.

08:31

Thank you, Mr. Mom.

08:33

Agenda Item three, given that we haven't got any affected parties with us this morning, that rather takes care of items A and B. So I'm going to move straight on Hu three C. And that's consideration of the applicants response to action points, AP One AP two and AP four arising from the compulsory acquisition hearing one and any associated deadline five submissions and the applicant address the action points in rep 4042.

09:16

Action Point one required the applicant to provide further detail on the notice period that would be given to landowners at the proposed haul route from the a 131 to the stair Valley West cable ceiling and compound was required for amendments or repair including any difference between the compulsory acquisition and the voluntary agreement approach. The applicant did this and its response to the November hearing action points and table 2.1.

09:49

was going to ask the applicant to briefly recap for the benefit of affected parties. I think even though we have known present this morning, I

10:00

Ask this club to do that, for the benefit of the recording or for any affected parties who are watching online. So if I could have your assistance, not respect was closed and please.

10:13

Yes, Rebecca Chuttan for the applicant. Thank you, Madam. Yes, the position that we've set out there in the response to action point one is, we identified the difference between the position where a voluntary agreement has been reached and where a power has to be exercised under compulsory compulsory acquisition powers within the DCO. Where a voluntary agreement is reached that they provide for three months Notice of Entry in the event that it's necessary to rebuild the temporary access route of the A 131

10:50

and 28 days if entry is required, but for something short of rebuilding, and also emergencies are excluded from both of those positions. But that is different to the position that arises where ca powers have to be used. In those cases, three months notice is initially given when from when the compulsory acquisition power is first exercised, but thereafter, the applicant will be Undertaker in that case is entitled to utilise the power as of when it sees fit. So that's the distinction that is set out now.

11:30

We discussed at the last hearing the potential to include something slightly different in relation to the compulsory acquisition power itself. And the applicant reflected on that matter. Over between the last compulsory acquisition hearing and the period of which is great it's response. And it, it came to the view that in fact, the greatest flexibility was offered through the bilateral voluntary agreement route. We felt that that was the the appropriate way to secure contractual notice provisions, including the timescales that we've set out, and also the means of service notice, though heads of terms that have been issued

do make provision for those matters. And we didn't think it was possible, or appropriate proportionate to include that subtlety in relation to the compulsory acquisition rights under the order, which you say are their rights.

12:30

And I thank you Miss Clinton for that. I certainly had

12:36

a little bit of difficulty figuring out the caveat, at the last at the last part of the sentence that referred to the voluntary agreement, where it reads, albeit the applicant accepts the exercise of the right itself pursuant to any GVD. Thus, general vesting declaration would be at a later date and not subject to such notice periods. I think it would be useful in this cup and just for everybody's benefit to clarify that. Thank you. Yeah, of course, what we're saying there is that because we refer to that, that there is three months notice that's given on the initial exercise of the compulsory acquisition power. We weren't what we were trying to make clear in that last sentence was that we weren't to be taken to be suggesting that three months notice will be given every time we thereafter intended to use the right that we had acquired, simply that there would be an initial notice period given when we when we originally require the right there after the exercise of that right on subsequent occasions wouldn't be subject to a statutory or other notice period.

13:48

Okay, so I understand. Thank you for that. I understand better know the distinction that you were drilling between the compulsory acquisition right on the voluntary agreement. When if I recall correctly, you were saying that the voluntary agreement

14:05

was there I said more favourable to the landowners? Okay. So I think that's I think that's a fair. Fair assessment.

14:15

Okay. Thank you that that was the clarification that that I wanted to get on that provision, because I just wasn't entirely sure. So thank you. I'm going to move on, given that it's, it's I don't have anybody else to defer to

14:34

action point to require the applicant to submit an appendix to the earlier technical note today with the environmental comparison on the swept path analysis for its preferred route for the construction whole route of the A through 131. And the alternative route suggested by dp nonsens and Mr. P J, not for their holdings. Want to look

15:00

At the sweat path assessment

15:06

given that they the given that they given that the alternative routes and the applicants preferred option would all share the same point of access off the A 131.

15:18

A deadline five you submitted a temporary access route of the a 131 concept design and swept path assessment. And that was rep five zero to six. The document also addressed the proposed a 131, ghost Island and Bell mouth but for the purposes of this compulsory acquisition hearing, I just want to look at Section Three in the sweat path assessment.

15:44

The assessment only relates to the proposed access route itself. Action Point Two also required analysis for the two alternative suggested routes on this tallies with what you said in your response to the November hearing action points in respect of AP two, and that was it rep 4042.

16:08

Without the comparator evidence, how can the examining authority properly assess the applicants contention from

16:16

the previous compulsory acquisition hearing, that the configuration of the two proposed alternative routes are considered to cater for abnormal indivisible loads in terms of both road users safety and minimising excuse me minimising disruption to the flow of traffic off the A 131

16:37

Rebecca clutton FIAP. Madam that work has been or is being undertaken at the moment, they just weren't ready in time for deadline or by intention is that they will be ready for deadline six and that they will be submitted then which I think is is next week. So the work has work has been done, the the examining authority will be informed of those matters, it's just that we can't quite get it at line five for which I apologise, the skeleton that's the Thank you. That's understandable, and it's helpful to hear that it will be with us shortly. I thought it had possibly just slipped through the net. So I'm relieved to hear that that's not the case. And we can consider that then in due course.

17:25

So I'll move on then to action point four, which asked for an explanation of why unauthorised use of the proposed construction Hall route from the A 131 would be prevented and how any such measures will be secured through the development consent order that I'll refer to as the DCO. The applicant engaged with this again in its response to the November hearing action points rep. 4042.

17:56

The main provisions relate to fencing and signage to be included in the construction Environmental Management Plan and construction traffic management plan and secured by requirements for of the DCO.

18:10

Without suggest that whilst either side of the proposed haul road will be fenced off from the agriculture alarm through which it passes that prevent prevention of unauthorised access to the route itself would rely on signage alone. This is contrary to the applicants advice at the first compulsory acquisition hearing, where evidence was given of a security guard had been posted at the junction of the a 131. And then a subsequent get system along the route to the Star Valley West cable ceiling and compound identical back and check the transcript of the first hearing. And I just asked the applicant, why the change the seeming change of heart

18:58

to this element of the proposal. So I hand over this place.

19:05

Rebecca close to the applicant. Thank you, Madam that

19:11

provides some reassurance. It's not intended that we depart from our previous position, that there would be more extensive security measures in that location. What I'm going to do is pass you over now to Mr. Robert Jones, who is

19:27

able to provide you with some information about that

19:30

morning, public joins for the applicant.

19:34

The security measures that we intend to have installed on the whole road is for around. Basically 131

19:43

to have intermediate crossings gated and where the risk is considered necessary to have the digital policeman devices that will report back. We also expect

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say that the security company controls the whole road. And it's access points to make sure that there is no insurance for people who are not expected to be.

20:16

Steve Jones, thank you. You're I couldn't hear you just totally clearly. You mentioned, I think digital placement devices? And could you say a little bit about that, because that's not something that I'm familiar with. On lots of construction sites. Now you see these,

20:36

like droids type devices that do recording and communicate back

20:44

there. We've used them on our refurbishment programme in the area. So when we've got towers, where we've got planets that's left, you have these devices that when somebody comes nearer than they record, and they send the message out to the security guard.

21:00

Thank you very much. Maybe I'm the only one that find that helpful. But but it was. Thank you.

21:07

That's reassuring to hear. And that could be recorded in the in your note of this particular hearing still, so we have it on record. So thank you that that that was useful.

21:22

Unless there's anything that you want to add on that. Agenda Item three, see, I propose to move on

21:33

the applicant no matter where we happen to be gone. Thank you. Thank you.

21:39

Well, the next item then is points arising from the applicants comments on other submissions received deadline three. And that was rep 4022. And I wanted to look at Section Three and respect to Frances process deadline three submission relating to land rights. And that was a s 008.

22:06

I included the item on the agenda in case Mr. Prosser was in attendance. I'm sure he'll use the opportunity to respond to what the applicant has had to say on his submissions at a subsequent deadline. There was one thing that I wanted to clarify with the applicant in Mr. Process absence.

22:36

And that was in relation to lots 638 631 and 632.

22:48

And I wanted to ask the applicant, what provision in the draft DCO could those with legal rights in those plots, again, 636 31, and 630, to rely on to ensure that access across them would be solely confined to establishing and maintaining the area for biodiversity mitigation. I take it from reading the submission that there was a concern that they could be more heavily used to assist in the work to the existing and proposed overhead lines to the south. So if we can hand over to the applicant.

23:34

Rebecca clip and, madam, I think we'll just have to take that particular point away, I'm afraid and just because I want to make sure we get the right answer for you. We don't have that stand immediately. That's understandable. Thank you.

23:50

Just making a note of that

23:56

unless there any further issues that my colleagues want to explore,

24:05

or anything else that the applicant wants to add, I'm going to move on to agenda item four.

24:14

So agenda item for site specific matters for the applicant.

24:22

The first item A, the examining authority is aware of from the applicants submissions, that it's actively in discussions to try and secure the rights that leads through voluntary agreements. It's noted the submission of the updated compulsory acquisition and temporary possession objections shedule at deadline five, and that was rep five zero to two. Nevertheless, it would be useful if we could have a brief general update on how these discussions are progressing and

25:00

An overview of the current expected deadlines for contusion. So in this place

25:09

Thank you, Madam Rebecca Clinton for the applicant. Yes, landowner engagement has continued very positively since the last compulsory acquisition hearing. At that stage, you'll recall that we had 14 agreed and signed heads of terms out of a total of 110. That was just prior to the first compulsory acquisition hearing. Since then, we have secured a further 16 heads of terms. So we now have a total of 30 heads of terms that are agreed and signed as at seven, so just in front of names, position to date. So we also have a further 47 heads of terms that are,

25:55

the negotiations are effectively concluded where we've got the heads of terms that have been sent for approval or signature, so where they're very well advanced. And then we've got further 30, where the heads of terms have been issued, and negotiations are ongoing, whether engagement has been more recent, there are only two instances where we have no recent engagement from the affected persons recorded. We have made contact with those parties again, and we are trying to engage them. We just haven't been able to yet. And we have a we've had one elected party who's made clear that they don't intend to engage further whether so positive, positive steps, and I can I can hand over to Mr. Bell, for anything that you want consent in any more detail, Mr. Bell does or anything you want to add to that now.

26:46

masu belts the applicant, nothing at this stage?

26:52

I think just to stare, I know it's probably asking you for the length of the proverbial piece of string. But

27:01

when do you think that the agreements might be the second ones that are effectively concluded and then the ones where a dishes issues have been identified?

27:13

Early in the new year, or

27:16

is or even to just guesswork?

27:21

Atmosphere both applicant

27:24

passports back to your first point about the length of a piece of string, really.

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We, we it's in our interest to promote the voluntary agreements to the

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as far as we can, it's always our preference. To secure the voluntary agreements, it would only be

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when we get to a stage where we say that our programme was impacted. That, you know, we'd have to look at alternative measures.

27:59

Negotiations at the present with with the

28:03

book 47 That was mentioned that that's a sort of, in the main I would say that's a logistics exercise. The the agent getting around to his the agents getting out to their clients for the for the signatures. So, you know, we have our fingers crossed

28:21

into the into the new year, but

28:25

any more definitive than that?

28:28

couldn't guarantee stage.

28:31

And I appreciate the time of yours. Not in your favour. But I certainly look forward to the the the the deadline seven early in the new year to see what progress has been made when I get the the updated. Objection. shedule. So thank you for that update is useful to hear that progress has been made. Thank you. Rebecca, clapping for the applicant, Madam just to indicate as well and when we are although the festive period is upon us. Certainly the surveyors on the ground are still very much actively engaged. And I understand also that we are continuing the signatures are coming in on a fairly regular basis now is the same as Mr. Bell said it's when when the agents get round to seeing those clients. So hopefully, your wish that some more of those will have been concluded by the early New Year deadline will bear fruit.

29:30

Thank you very much.

29:33

Agenda, excuse me, agenda item B. And that was progress of negotiations with Robert Cullen, including consideration of his suggested alternatives. And his submissions were or or 067 and rep 2036 a deadline to Mr. Carlin made a written representation that resists site specific concerns

30:00

But use of an existing point of access and preference to a new one. And avoidance of reportedly poorly drained land.

30:10

Mr. Carlin hasn't submitted a map or plan showing the features subject of his concern. So this is something that the examining authority is going to ask for assistance with and its next set of written questions. However, I see from the applicants latest compulsory acquisition on temporary possession, objection sheduled rep five, zero to two that signed heads of terms were received from Mr. Cohen's agent on the 29th of November last. So am I just for the absolute avoidance of doubt? Am I right in concluding that agreement has been reached, notwithstanding Mr. Cohen's concerns and is initial relevant representation on his subsequent written representation? I could have the appellants assistant or not, or the applicants assistants on that place. Rebecca clutton for the applicant, Madam Yes. In short, those matters, the agreement has been reached between the parties, notwithstanding the concerns that were previously expressed by by Mr. Kaolin, so hopefully that's, that draws a line under that matter.

31:27

Okay, thank you for that Miss Clinton, that's helpful to have that update. And the next agenda item is similarly trying to piece the jigsaw together. That's the applicants interaction with made to farms whose relevant representation was or or 041. And in not reference was made to two pieces of land that the applicant reportedly needed to acquire rights and that the writer wasn't willing to see to.

32:04

I've searched on every variable in the book of reference, I didn't on Earth, any apparent entry in successive versions of it, and the CA and TP objection schedule and or Appendix B of the statement of reasons that contained a schedule of negotiations with London chests. And that was AP p 040. The plans that were referred to in the relevant representation, they're seemingly pre application are not part of the current application.

32:43

Again, I was going to include a question for Mr. Maid, asking for submission of aplomb, just to show the land to which the relevant representation refers, however, in case he doesn't respond, can the applicant advise if you've had any interaction with him are aware of the alarm referred to

33:11

Rebecca Clinton, so the applicant? I'm going to hand over to Mr. Bell on this one, but in short, your note, madam, there is no, there is now no longer any intended interaction with the with the land in terms of the rights that was complained about. But I'll pass over to Mr. Bell to give some more detail on that.

33:32

To both the applicant, we understand that made farms to be a contract farm on behalf with one of

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us on behalf of the PIL. Those also believe been being removed from the book of reference

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for this land that we're intending to carry out some bng works in federal reinforcement along Panthers were

34:02

when we've reassessed the B and G proposals in that area, we removed the need to go to these pills. And so interaction with made farms

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will no longer have to happen.

34:22

Thank you, that explains why my successive searches of books of reference was didn't bear any fruit. So thank you for that. So that brings me on to the final or the penultimate

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item under

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this agenda item and that was the applicants response to Robert Shelley suggested alternative means of access to the stirred Valley East ceiling and compound and that was submitted at deadline five or

35:00

As rep 5040

35:04

The applicants deadline five ca and TP objection shedule. Rep five zero to two includes Mr. Shelley's interests. And

35:19

your advice them as they relate to shooting rights only that a voluntary agreements been sought with the freeholder. I don't want to stray into the reasons behind the alternative route having put forward in terms of landscape and parked and alleged socio economic reasons for the shoot. But from the compulsory acquisition point of view, is there anything that the applicant wants to add today, in respect of that suggested alternative means of access? So we can handle replace?

36:05

It's like a club and for the applicant, madam, yes, we, as you know, we requested the affected persons proposed alternative access, we receive that early in December.

36:18

In short, in line with our previous responses to representations made by the parish councils that proposed alternative action access is not the third option. And we set that out. And we set out the reasons for that in red 5025. And it's a PDF pages page 1382139.

36:45

And I do have witnesses here who can go through those matters in more detail with you. But I think for our purposes, we're content to rely on what sets out in that written

36:56

report unless it'd be helpful to you to hear from from witnesses themselves.

37:01

Miss Clinton, thank you for the offer. But I was very aware and trying to introduce the the item that I don't want to stray into value judgement when it comes to issues outside the Bailiwick of the compulsory acquisition. So it was really just to put it on the table. I'm sure if there's anything further, you want to address, you'll avail of of the fast approaching deadline six. So I'm happy to leave with that. But thank you. Thank you.

37:37

That concludes the questions that I have for now, on agenda item four, are there any other associated points that the examining authority or any other party wants to raise? Before I move on to Item five? I

37:56

don't see any indication. So I will move on then to deal with statutory undertakers.

38:07

I think given that it is that I that we don't have any of the statutory undertakers present, that I just

38:19

give a brief summary of where I understand from the applicants on the statutory undertakers submissions that the party's current dealings

38:33

where they've taken them on what needs to happen to progress towards resolution. So I'm just going to go through the five statutory undertakers that are bulletins in the agenda item. So I start with Anglian Anglian Water Services Limited.

38:57

Were to principle deadline, five updates, there was the CA and TP objection shedule rep five, zero to two, and also the applicants protected provisions and commercial side agreements tracking list that was rep five, zero to nine.

39:19

I've noted from both that discussions are ongoing, that protected provisions have been agreed. And they're included in part three of sheduled 14 to the draft DCO that there's ongoing discussion over the construction interface agreement, which is anticipated will make provision for managing construction related interfaces capable of arising between this proposed development and Anglian waters, berries and admins to Colchester pipeline scheme.

39:53

Only one substantive point remains to be resolved. And that's currently with the statutory under

40:00

paper for confirmation. And the resolution is anticipated prior to close of the examination. So, albeit that deadline five was only 10 days ago, has any further progress been made that the applicant wants to prize the examination of

40:21

ask this club to desist? Yes, I'm Rebecca Clinton for the applicant. On this one. I'm going to hand over to Mr. Bevin, who you'll recall from previous hearings. Bevan is the Senior Project Manager.

40:37

Morning John Burton off the applicant. So as you say that that not much time has passed since since the previous update the refer to it in terms of Anglian Water. sessions have continued. And the final remaining point is around essentially timing using a construction compound. I think in the last couple of days exchanges between the legal teams is pretty much closed out. So I suspect Well, I hope and

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perhaps not the next deadline, but the deadline following that full resolution. We think that

41:12

sounds promising. Mr. baffinland? Thank you, you anticipated my question, but are you likely to reach agreement before deadline seven solid sciences if that's that's on the cards, so thank you, and move on then to Kin gas limited, again, in the CA and TP objection. sheduled. Rep. 5022. You say that protected provisions are now agreed they're included in part five of sheduled 14 of the latest DCO. That's draft DCO, rep 5005.

41:49

And it's subject to satisfactory resolution of commercial site agreement. You give further details of this in your protective provisions and commercial site agreements tracking list and that's rep five zero to nine, where you refer to ongoing discussion to make provision for certain commercial matters. Raised in cadence relevant representation, or or zero to four. You anticipate resolution by the end of the examination. Again, if I can ask if there's anything that you want to add. And are you likely to reach agreement before deadline seven. Thank you. Rebecca Clinton for the applicant Manimal provide the updates on this one the those the position remains really are set out in in the shed kill. The side agreement remains under discussion between the parties, respective lawyers. Were not anticipating that agreement will have been concluded by deadline seven, we would be more hopeful that it would have been concluded by deadline nine

42:53

that we can provide it can provide an update on progress though at an earlier stage than that.

42:59

Thank you very much. That's useful to note. I'll then move on to network real infrastructure limited. Again, I note from your ca and TP objection shedule rep. 5022. And your protective provisions and commercial side agreements tracking list rep five zero to nine that protect provisions are not agreed a part four of shedule 14 of the latest draft DCO that's rep 5005 Basic asset protection agreement has been signed by both parties relating to the design and construction of underground electrical cable works. The 132 KV overhead line removal works forming part of this proposed development beneath and above the Sunbury branch line. And there's ongoing discussion over design and land interface associated with the commercial agreement arising from network reels written representation that was rep 202. It

44:08

has been a recent meeting between the parties to discuss how its terms and that resolution is anticipated in relation to commercial agreements before the end of the examination.

44:20

That summary certainly paints are brighter picture than the prognosis that the examination was given at the first compulsory acquisition hearing. So again, any update and be anticipated when we might anticipate agreement SFX can hear from the applicant, please? Yes. For the applicant. Madam I think it's fair to say that we were more optimistic last time we met and then commercial matters reared their heads that have made the discussions slow down a little more than we would have liked how

45:00

Whether, notwithstanding that point, the discussions do remain ongoing. There have said there have been recent meetings, discussions are are positive.

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We

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remain hopeful that there will be agreement reached on relevant matters before deadline nine won't be by deadline seven.

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The as you'll be aware, there is a programme deadline for final updates on commercial agreements at deadline nine, however, because of the need to make, potentially make section 127 and 138 submissions, probably around that date.

45:44

What we're what we are hoping to do instead is to achieve clarity from Network Rail in early to mid January around whether resolution is likely to be achieved and at what time so that we can make our case on one to seven and 138. If we need to. We remain hopeful that that won't be the case. But so that, you know, we are going to take take take steps early in the new year to try and understand whether that is the case so that we can provide you with the information you need by deadline nine.

46:15

Thank you, Mrs. Clinton, that's very helpful.

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I'll move on then to permitted par.

46:24

Again, from the compulsory acquisition and temporary possession objection schedule, rep 502 to the protective provisions, commercial side agreements tracking list rep five, zero to nine, I see that heads of terms have been agreed with pivoted par for an interface agreement, which is anticipated we'll make provision for ensuring amendments of access rights to its assets subject of the relevant representation or or 035 and commercial negotiations between the parties on that agreement, or at an advanced stage whereby you anticipate resolution by close of the examination. And again, is there anything you want to add to that summary or

47:16

any further information on when the agreements might be completed? Thank you.

47:26

Clap for the applicant? I don't know the position is largely as you've set out there. There have been ongoing discussions the agreement is a little bit further advanced than it was everything is looking very positive, pivoted power though and we would anticipate having agreement guided line nine

47:47

thank you for that. That's that's welcome.

47:51

And then East Anglia. One

47:57

we have to limited

48:00

in your in the applicant status of statements of common ground rep 5009. It documents challenges that

48:13

Where are you document challenges that you have in the summer when trying to communicate without protecting particular statutory Undertaker. Now even though there were no material updates to report a deadline five, you said that you've been successful and re engaging with them. On that an updated statement of common Brian should be provided a deadline six. Can I ask if you're on track to achieve that?

48:44

Rebecca, good luck with the applicant. I'm going to pass it over to Mr. Bevin again on this one.

48:49

Don Bevan on behalf of the applicant. Yeah, as you refer to we had some challenges of engaging with DC East Anglia, one often limited, which was divested from ScottishPower renewables into the two projects, which is why there was engagement to begin with on the face of common ground that I think we submit to the fight the application then split the two and on East Anglia three limited.

49:16

The conversations continued after the updates were submitted. And but on TCP stack, the one stone limited, those discussions are less progress.

49:26

As you again refer to directly. We have now reengage with them. So we hold a really productive meeting earlier this week with them.

49:37

I think in terms of where we are with agreements, obviously it's early days of understanding the interface.

49:45

As expected, it's quite similar to the standard three interface into its offshore wind farm with an onshore substation or first station that then connects onward into the existing national grid transmission at

50:00

substation. So it's similar interface issues. So we're working through those.

50:05

They're just in the process of appointing lawyers to start those negotiations. But I think where we're anticipating it will be is, is likely to require bespoke protective provisions. And this is obviously, very early discussion. So this kind of where I guess, we think it's heading. So bespoke protective provisions for the benefit of TC stagnate one off doe limited. And of that, alongside that probably some kind of commercial agreement or interface type type of agreement, similar to some of the others.

50:40

So I think that's where we are. I think we'll probably try and give a further update at deadline six, to kind of come through solidified that position, but I think that's it, as I say it is quite early days, but that that's where it seems to be heading. I don't think there's any fundamental issues. So I expect resolution by the end of the examination box. There's quite a lot to get through to get there next week, kind of three months behind where we are setting up a statue and detectors on.

51:11

Thank you, Mr. Bevin. That's certainly what came across from

51:17

from your deadline five submissions that there are no insurmountable obstacles between the two parties. The only thing may be against all of us at the minute is time. So I certainly look forward to that update, but it sciences effort is you're still hopeful that it will be resolved before the end of the examination. Okay, well, no doubt you will be working towards that objective.

51:46

So then

51:48

East Anglia three Ltd. The applicants updated statement of common ground with that statutory Undertaker rep five zero it team says that you've issued hands of terms in respect of an interface agreement to manage the parties respective project.

52:09

Shepherd on wetter burns deadline five submission on behalf of their client that was rep 5036 gives a positive progress report that affirms your deadline five update in your ca and TP objections shedule rep. 502. To that you're confident that agreement will be reached before the end of the examination. So is there anything that you want to add in this respect

52:40

for the applicant? No, madam that's that's where we are still the heads of terms of finish you to them. We await their comments on them. But the engagement has been positive. And we see no reason why agreement won't be reached before the close of the examination.

52:58

Thank you. Well, that certainly is what

53:02

what came across to me from their deadline five submission. So netofa Docs,

53:08

good progress.

53:12

Leads to resolution. So thank you. Is there anything else that the examining authority or other parties want to raise on this agenda item?

53:26

No. Okay.

53:28

I move on to agenda item six, policy. And I just want to be very clear at the outset that this is being discussed on a without prejudice basis, to the wet, if any, that might be attributed to the policy that I'm going to speak about. So the final consultation updates on the proposed national policy statement for electricity networks infrastructure en find for designation in early 2024, was published on the 22nd of November last and section 2.6 deals with land rights and land interests.

54:14

It would be useful to have the party's views on the perceived implications of that first set of draft policy for this proposed development, or in this instance, the applicants.

54:31

And I note that you refer to the government's intention to designate the revised energy national policy statements in your deadline five cover letter, which is rep five and 001. And whilst you cite the transitional arrangements you say that review of the latest NPS is planned for deadline six.

54:55

I just wanted to give you the chance today to

55:00

and make any submissions on

55:05

the provisions in advance of that.

55:12

There were one or two things that I maybe just wanted to fly go up. But can I just thought it was maybe to flag up some things that affected parties and raised, but it's rather an echo chamber with just the examining authority on the applicant. So I don't know how the applicant wants to deal with this, whether just to stick with the intention to give the update a deadline six or to have any engagement with it today. And I'll be steered by you on this.

55:51

Rebecca gotten to the outcome, but I couldn't give a very brief outline of acquisition in relation to 2.6. Because it's quite a short point. Obviously, the relevant MPs for the project remains the designated 2011 MPs. However, the update that we've seen is capable of being important and relevant. Short point is that the approach that the applicant has taken accords closely with that, precisely with that, that set out in 2.6 of the November 2023 MPs, in terms of the approach to compulsory acquisition, making efforts to seek voluntary agreements using compulsory acquisition only as a last resort, and minimising the amount of freehold acquisition that's undertaken with rights for cables and overhead lines. And we do also note that paragraph 2.6 makes clear that compulsory acquisition powers can be used or exercised in respect of land or rights required for mitigation, landscape enhancement, and importantly, biodiversity net gain. And also, it makes clear the strong preference for permanent arrangements in relation to cable and over headline rights, so easements rather than, than way leaves. So I think in In short, we are called with paragraph 2.6, in the same way that we accord with the land of rights section in the 2011 MPs. And it just provides further support, in our view for the position that we have in relation to the acquisition of instance, and also mitigation enhancement and bng. Land of rights.

57:37

Mrs. Clinton, thank you. Just one thing that would be useful to for you to address in your deadline six submission. On this point, I couldn't see anything in either draft en five, or the draft overarching policy statement for energy and warmth, that give clarity on the proposed compulsory acquisition of land or rights overland, prior to the introduction of mandatory biodiversity net gain for nationally significant infrastructure projects in November 2025. Now, I appreciate that the issue was raised in issues specific hearing for but just for these intervening publications, I wanted to revisit it. So if you could

58:33

address that particular point when it comes to Deadline sex, or indeed, if there's anything you want to say today and welcome.

58:42

Rebecca Clinton to the outcome, No, madam, we can make sure that we've covered that point in our deadlines that submission.

58:48

Thank you.

58:50

Is there anything else that the examining authority or the applicant wants to raise on the issue of the proposed national policy statements today?

59:03

No, okay, thank you. I will turn to agenda items seven and eight, which respectively, are human rights and consideration of duties under the equalities act? 2010. As was the case at the first compulsory acquisition hearing, I included on them on the agenda in case anything arose at deadline five, that the examining authority wanted to raise with parties in this forum. There's nothing that I want to address. Is there anything specific to those issues that the ESA or the applicant wants to raise at this stage?

59:49

Don't see an indication that that's the case. So I will move on to Agenda Item nine funding

1:00:00

And that was just one very discreet point for made. And in the applicants response to question m j 1041, of the examining authorities first set of written questions that was rep 305, to give a figure for each of National Grid groups regulatory asset value on that for national grid itself,

1:00:27

given that the latter was a higher sum than the former, on my right in assuming that there should be a comma on non full stop and the first figure, so that refers to

1:00:40

five eight comma 977 million as opposed to 58.97 7 million. It's a small point, but could make a big difference. So if I can get the applicant to clarify that for me, please. Yes, Rebecca Clinton for the applicant, and we're all laughing, we thought that that was the point that you were going to when you're going to come to I can confirm that the regulatory asset value of the national group has not 58 pounds 97 that we ought to have had a comma in place of full stop.

1:01:13

Thank you. Good to see it. I know it's, for those viewing, it may seem pedantic, but it actually can be very important in the overall assessment. So thanks for that clarification. It's the only matter that I wanted to raise regarding funding. Is there anything else that my colleagues or the applicant wants to raise on that issue at this stage?

1:01:42

Nope. Okay, I'll move on to Agenda Item, Tam.

1:01:48

That's any other business. And there's nothing that I want to raise with the applicant in this context. Is there anything that the examining authority or the applicant itself wants to raise before I move on from the agenda item?

1:02:16

No,

1:02:17

I've no other matters notified to me under this agenda item that people wish to raise at this meeting. So on that basis, I'll hand it over to Mr. Mom to bring the meeting towards the close. Thank you.

1:02:41

Thank you, Mr. Corsi. Before I do that, I'll just run through the extensive list of action points, if I may. In fact, there's only two and they're both for the applicant, not surprisingly.

1:02:53

First one is the sweat path analysis for the alternative routes that have been suggested for the access route off the A131, which the applicant has promised us for deadline six.

1:03:06

And the second one also for the applicant for deadline six was Mr. Courses point about 636 31 and 632 plots?

1:03:17

And how is how would the use be restricted to biodiversity mitigation management measures only. So those are the only two I had unless I missed anybody that has any other any other action points, which I missed, Rebecca, for the applicant, so the only other one, whether you regard it separate action points or not might be a moot point is that we've indicated that in our response on the draft national policy statement that we will give, we will deal with the matter relating to

1:03:49

matters that biodiversity net gain prior to the introduction of mandatory biodiversity net gain.

1:03:55

I con pondered, adding that one, but I was trusting in you on that one. So thank you very much. So it was two and a half action points. Does anybody else have any comments or queries

1:04:06

on agenda item 11. In terms of actions,

1:04:10

nothing heard there. So I'm going to conclude agenda item 11 and move on to the final one. And that's the close of this hearing. Can I remind everybody that deadline six falls on the 20th December 2023. And those people who have spoken today should ensure that any written summaries of your oral submissions reach the examining authority by that date.

1:04:33

So on behalf of the examining authority, can I thank you all today your attendance has been very helpful and very much appreciated. The time is

1:04:44

1035 and the compulsory acquisition hearing is now closed.