

### **Hynet\_7 June\_CAH\_PT3**

Created on: 2023-06-07 14:58:45

Project Length: 01:09:12

File Name: Hynet\_7 June\_CAH\_PT3

File Length: 01:09:12

#### FULL TRANSCRIPT (with timecode)

00:00:05:13 - 00:00:07:14

Welcome back, everybody. Um.

00:00:09:14 - 00:00:40:11

Time is now. Two 220. Um, and I'm resuming session three of this compulsory acquisition hearing. Can the case team confirm that they have started the audio of the live streaming and the digital recording, please? Thank you. Just to remind everybody, after a break, can you make sure your mobile phones are switched off or turn to silent, please? Uh, no. Probably like me. You've been out and made a call or several since, so, um, see if you can turn them off or switch them to silent.

00:00:40:13 - 00:01:16:15

I'd be grateful. We're going to move on to agenda item five. Which? Sorry, four, which is the book of reference, The statement of reasons, the lands plans, the diligent inquiries and updates section. Um, draft agenda referred to the applicant's compulsory acquisition and temporary possession schedule, which was rep 1-049 at deadline one and the schedule of negotiations with land interests at Rep 2-010 that was provided at deadline to these documents set out the progress on discussions with regard to compulsory acquisition and temporary possession, voluntary agreements and objections, etcetera.

00:01:17:02 - 00:01:58:15

Um, however, I note that the applicant has also provided an update with regard to the progress made with made with affected persons in respect of compulsory acquisition and temporary possession and schedule of negotiations submitted at deadline three, which was 302012. Um, and that was the day that the hearings agenda was published. So that was submitted. Bearing this in mind, could the application applicant summarise the progress made to during the examination and the progress anticipated during the remainder of the examination? What what progress has been made where there is an objection to the rights being acquired? Please.

00:01:58:28 - 00:02:11:15

Additionally, if you could set out where you've not been able to progress any discussions with known parties, I'd be grateful to know what steps you're taking during the examination to resolve that. Please.

00:02:14:00 - 00:02:50:10

Yeah. So Shawn Williams on behalf of the applicant. So we've been in ongoing discussions with landowners across the scheme now since May 2nd, 2022, and the details of these negotiations are set out within the schedule of negotiations, which is updated at each deadline. Heads of terms have been issued to all landowners since that time, and we now have 11 parties who have agreed to those voluntary terms. Parties listed on the schedule of negotiations and marked Colored Green. The version three zero 12 and 3013 shows ten parties and one additional, which was agreed last week.

00:02:50:12 - 00:02:55:06

And these will be included on an updated version at deadline for.

00:03:00:08 - 00:03:32:04

In relation to known parties as shown on the schedule of negotiations. Some parties are unwilling or unable to agree to the proposed heads of terms. These are for a variety of reasons and these parties continue to be updated on the scheme progress and may be willing to reach an agreement once the is made. When detailed design is completed and the final location of the pipeline is known, or when personal constraints have been released, the discussions will continue the ongoing through throughout the examination to seek to reach agreements with all parties where possible.

00:03:33:00 - 00:03:54:00

Let's hope that more agreements can be reached before the end of the examination as well. We're continuing to negotiate where we can. However, it is expected that a number of landowners will remain unwilling or unable to agree to the sale of the land or rights that the project requires. And as such, it's proposed that compulsory acquisition and temporary possession powers are therefore required to be used as a last resort.

00:03:58:21 - 00:04:01:16

Steps that we've taken to identify. Sorry.

00:04:04:01 - 00:04:08:17

Jump in the questions. So thank you for that. Um.

00:04:16:20 - 00:04:27:19

Yes. If you could provide updates at regular intervals as per the Rule eight letter, I'd be grateful. Um, that's clearly marked in there as a as a milestone at each deadline, basically. So.

00:04:35:06 - 00:04:38:25

Can I just ask for one point of clarification in actual fact? Um.

00:04:41:19 - 00:05:22:17

So just going back to where I've made a note of my query, um, rostand's is it? Rostand's have made several representations for various people and no, they're not here today to represent anybody. But in some of the plans that they've submitted in Rep 1081 there is a property plan attached to it, um, which suggests that, um, Richard Benjamin Jones and R.B. and Jones and sons have an interest in plot 1011 um, as detailed on the Lands Plan submitted at deadline to rep 2-004.

00:05:23:03 - 00:05:44:21

However, the book of reference doesn't reflect this. Um, and that was wondering whether or not you could clarify if they are affected persons in relation to that specific plot. You if you want to come back at deadline for that query, I'm happy to do that. But it's just something I've picked up that, you know, it needs to be resolved.

00:06:01:11 - 00:06:30:18

Um. Vicky Bramhall for the applicant. Um, so I can provide a full response when I have a look at that plan again to confirm that particular answer. Um, but just looking at the book of reference then they are so rich. Benjamin Jones is listed in Plot 1011 but as a, as a, as a tenant or occupier. So they, they farm the land. But the, the land itself is owned in the name of Gene Jones, which is the name that's listed on the land registry at that point.

00:06:30:24 - 00:07:01:29

Okay, that's fine. As I say, it's just when you compare the property plan that they've submitted with that rep against the Land's plan and then the book of reference, um, I hadn't picked up that they were a tenant. Um, but most certainly R&B. Jones and sons, um, don't seem to be listed at all in terms of that specific plot. Just it sounds just like Richard Benjamin Jones as a tenant. So it'd be clear, it'd be

helpful to be clear whether or not they are meant to be in the book of reference in relation to that plot or not.

00:07:02:14 - 00:07:26:03

So thank you. Um, I'm here for the applicant again. Um, I will confirm this, but imagine that that plan reflected their holding, that their, their farming business runs. Um, and actually the, the complexities around which, which are owned by which part of the or which family members might be might vary. So I'll just blurs from that.

00:07:26:05 - 00:07:33:03

Yeah. Understand. Okay. In that case I'm going to leave that with you. If you can come back to me at deadline for I'd be grateful. Um.

00:07:38:03 - 00:08:12:23

Does any other party want to say anything in relation to the matters we've just discussed? No. Okay. There's nobody virtually either. Okay. Moving on to diligent inquiries. Um, what's the applicant's response? At first, written questions, which was rep 1-004 Question 1.6.4 sets out the approach to identifying unknown ownership. Can you provide further? Can you provide a further update with this regard, including any summary of any further steps that have been taken to identify owner unknown parties or interests during the examination? Please.

00:08:16:07 - 00:08:48:00

Thank you, Vicky Brownhill for the applicant. So we have so the applicant is completed diligent inquiry in line with the land reporting methodology as was set out in, in that response to the first written questions. And that was completed in line with the requirements in the Planning Act 2008. And that process of diligent inquiries is required and completed under section 42 as part of the applicant's duty to consult and again under Section 57, as part of the applicant's requirement to notify all parties under Section 56.

00:08:48:15 - 00:09:21:09

So as noted in in our in our response to point two of your of your questions and we're undertaking regular reviews to identify any updates in the land registry records and where information comes to light as a result of the examination. Those updates and or indeed communications with land owners and the holders of those interests. And they are being updated into the book of reference and followed up, investigated and updated at each deadline as as required.

00:09:21:23 - 00:09:48:18

And so a land registry refresh is currently planned, um and in progress at the moment to identify any updates in records ahead of deadline for and any changes will be recorded in a track change book of reference at that submission. All other updates that have come to light as a result of the engagement with landowners have that have been made known to the applicant and have been updated as the books of reference at each of the different deadlines.

00:09:50:26 - 00:09:54:19

Thank you very much for that. Anybody got any comments?

00:09:56:19 - 00:09:58:27

Nobody. Virtually nobody in the room. Thank you.

00:10:04:07 - 00:10:35:24

Okay, so the book of reference. Which is RIP 2-014 refers to the draft referred to in the draft agenda has subsequently been updated at deadline three with the revision to the book of reference and that's rep 3014. Um, that document refers to freehold and reputed freehold owners, leases or tents and

reputedly seasoned tenants and occupiers and reputed occupiers, but does not differentiate between these terms.

00:10:35:26 - 00:10:51:08

In the book of reference, can the applicant set out what steps have been taken or would be taken or will be taken to firmly establish ownership leases, tenants and or ownership occupiers of the properties for which reputed parties have been identified? Please.

00:10:53:24 - 00:11:34:18

Vicki Brownhill for the applicant the. So we have completed the login inquiries I've mentioned in line with the land referencing methodology set out in the appendix to the consultation report. This includes a precautionary approach to identifying land interests and whereby all interests are included where a writer in land is claimed. So if the landowner claims to hold an interest in land, we have included them and we've been inclusive in that regard. The applicant at this stage has not sought to require land interest to prove their interests in land, to firmly establish interests in properties, and that would be a process of due diligence further down the way.

00:11:34:20 - 00:11:42:16

Once we get to a point of sale or or acquisition but is not has not been done at this stage.

00:11:55:20 - 00:12:03:27

Okay. Thank you very much. Um, does anybody else have anything to say in regard to what they've heard from the applicant in regard to that question?

00:12:06:07 - 00:12:43:28

That's the total of my questions in regard to item five. So on that basis, I'm going to move on to item six, which is how it is intended to use the land where the reasonable alternatives have been explored and whether the right sort are legitimate, proportionate and necessary in in terms of flexibility, detailed in the design. It's clearly an ongoing aspect of the proposed development with the applicant advising. The number of design details are yet to be finalised within the development consent order proposed development and which haven't been yet finalised and won't be finalised until post consent effectively.

00:12:44:17 - 00:13:44:00

This is especially true in terms of the pipeline alignment with regard to its width and in terms of its depth limits of variation. And the examining authority needs to be clear that the rights granted within the DCO are legitimate, proportionate, necessary and bearing this in mind. What's the potential for the reduction in land and rights proposed to be acquired occurring during the design of and what liaison with affected parties will take place in that event? I think really what this is about is the use of the land and whether reasonable alternatives have been adequately explored and whether the right sort of legitimate and proportionate and necessary is already identified, bearing in mind that the width that you're seeking to secure in the first instance, which is the 100 metre width, I believe, although it reduces down in certain pinch points, it is a difficult concept to grapple with.

00:13:44:21 - 00:14:02:18

And you successfully gave an outline earlier of the process that you're going through. But there is always generally the potential for potential doing detailed design for the rights required to reduce. Um, and as I say, this is especially true in this case where.

00:14:04:12 - 00:14:24:17

You require 100m because of the alignment of the pipeline, which will reduce to 36m working width roughly, and then an easement corridor of 24m at a further stage in in the in the process. So we're reducing down each time once you refine each stage. Um.

00:14:27:03 - 00:14:30:00

But they need to be confident. Sorry.

00:14:31:29 - 00:14:36:23

The applicant has clearly taken a precautionary approach because of the width they're seeking. Um.

00:14:38:13 - 00:15:08:21

Such that it's confident that the proposed development can be can be delivered. But my question arises as a result of the reduction in the amount of land required arising from the detailed design stage. And it creates quite an interesting position in terms of the examining authority needing to judge whether the rights being sought and now now are legitimate, proportionate, necessary, given the actual detailed design may prove that they aren't necessary. This is something I'm having to grapple with. In reality, it's quite a common issue and maybe I'm overcomplicating it.

00:15:09:18 - 00:15:41:16

So having some clarification on the design process and how you're going to refine it down and why such a wide corridor is necessary in the first instance would be helpful to understand, especially in regard to the human rights context. And clearly the detailed design process process develops. And there are scenarios that where decisions are made about the design options and adoptions of choices informed by, for example, costs and timing and expediency.

00:15:42:05 - 00:16:14:15

Indeed, there's a balance of reasons that make a particular design choice, but it's relatively unusual, in my view, for a designer to put human rights concerns, for example, at the forefront of their mind when they're actually laying the corridor down. So if you could. It's explain to me why 100m corridor is specifically required across the the entire width of the the plot mean no. It narrows down at certain points because of various factors.

00:16:14:17 - 00:16:30:11

But 100m is quite an arbitrary and large width. If you could give me a reasonable sense of understanding as to why that width is necessary and proportionate and reasonable, I would. I would be grateful. Please.

00:16:34:09 - 00:16:36:15

I don't know if I've explained that very well. So.

00:16:36:21 - 00:16:38:26

Julian Boswell for the applicant. Um.

00:16:41:12 - 00:16:46:29

Yes. Obviously every linear project has the same challenge, which I think you've just acknowledged, which is that.

00:16:49:02 - 00:16:55:15

And. As McGee referenced it earlier and think Mr. Glass referenced it

00:16:57:02 - 00:16:59:00

in passing yesterday that.

00:17:00:21 - 00:17:09:04

That there is always a balance to be struck between how much design work you do before you have got consent and.

00:17:10:22 - 00:17:44:23

And that if you if you you know, there are substantial costs attached to design the substantial timing attached to that and. The way that compulsory acquisition rights have evolved over the years has repeatedly endorsed the approach that we have followed in terms of where that balance is struck to cope with the uncertainties along what is quite a long route.

00:17:44:25 - 00:18:32:00

Obviously there are longer linear projects, but this is not a short linear project. Um, and the sheer length of it means that, um, as a promoter one has to think carefully about not being in a situation where the corridor is too narrow so as to not give you the flexibility to, to cope with the uncertainties and the things that might be revealed when detailed surveys or more detailed surveys and design, um, is, is taken forward and there's certainly are projects where they have narrowed too much and regretted it and that's been a major issue.

00:18:32:02 - 00:19:12:10

And I could I'm not going to, but I've got sort of fairly direct knowledge of two examples of that which I know I don't think it's right to name that. But, you know, the when, when, when one is working with a design team on a project like this, the lawyers say, make the point that you've just made, which is that there has to be a balance struck here between the engineering need and it has to be need. Um, and the fact that it is imposing, um, uh, it is imposing rights and restrictions on the landowners affected.

00:19:12:21 - 00:20:06:20

Um, but on the other hand the project has to be deliverable and there has to be enough confidence in that deliverability. I think the other inevitable aspect to this is that projects look at the history of other projects and what they, you know, what they have obtained and how successfully they've been delivered, including um, some examples that I've just alluded to where projects have been too narrow and that in practice different projects and inevitably pipeline projects look at other pipeline projects to see what routes, what widths they have, um, they have promoted on the basis of and I think we have referenced a number of other other pipeline projects which have referenced 100m in terms of the.

00:20:07:26 - 00:20:32:10

The the human rights dimension, I think is really around the fact that in the end the project is only going to take what it needs. Um, because there's a huge vested commercial interest in not taking more land than is needed because then, uh, and obviously ideally that's being done by agreement, but

00:20:34:03 - 00:21:06:23

if it's being used through the compulsory process, then every promoter has a has a very strong incentive not to take more than is needed. And we have made a clear commitment as to which is referenced in the statement of reasons and that you've just been quoting in terms of the wits that we are, um, that we need for, for this project. So I think that this is a very well trodden path. Multiple linear projects, pipelines and cables in particular.

00:21:07:06 - 00:22:05:06

Um, and we're confident that we have struck the same balance that the Secretary of State has repeatedly endorsed on other, um, similar projects. And so, um, we, in terms of the 100m being arbitrary and there being some exceptions to that, I think again that's a very standard approach because if you, if you, if you don't follow that approach, it begs the question, well how you know what ah, that you're then sort of getting more and more into that more detailed analysis which is where the whole philosophy, as it were, is to is to go so far in terms of the design and in terms of we, we have had passing discussion of, as mentioned earlier, an example of where we have narrowed that width because of there were there's sort of issues.

00:22:05:08 - 00:22:41:10

The constraints were so obvious that um, that was almost forced on us. And then there are other examples when we have needed wider because for technical reasons we, we've needed, um, we've needed that, that flexibility. So it is, it is pretty much the norm. Um. Well, for what it's worth from my personal experience. But be if if you were to spend and maybe you have spent a few happy hours looking at other linear projects on the Planning Inspectorate website, which is actually, you know,

00:22:43:29 - 00:23:16:29

very easy to do, isn't it, because it's so, so accessible. You will see that that sort of consistent corridor width is the dominant approach and that is that that's the one that we followed. So I think in conclusion, we are entirely comfortable with with the approach that we have, that we have, that we have followed and that we have struck the right balance, and that in doing so, we have respected the human rights, the human rights dimension as well.

00:23:21:00 - 00:23:37:06

Thank you very much for that explanation. Does anybody have anything to say in regard to what the applicant just say? And nobody virtually that can see nobody in the room. I'm going to move on to my next question then, but thank you for your comprehensive response on that. Thank you.

00:23:41:25 - 00:23:45:13

So in terms of reasonable alternatives.

00:23:47:06 - 00:23:58:25

At least clearly from your perspective. You've covered all the reasonable alternatives to compulsory acquisition. Is that correct? Have you explored do you believe you've explored everything you need to explore on

00:24:00:19 - 00:24:02:00

reasonable alternatives?

00:24:04:19 - 00:24:37:14

Julian Boswell for the applicant? Yes. Again, this is a very well trodden path, particularly for linear projects where it is inevitable with a linear project pretty much that um, that you, you're not going to, to, to sign everybody up and, and or if you waited you would be waiting a long time. And then the whole reason that compulsory acquisition exists is to underpin the delivery of projects.

00:24:37:16 - 00:24:56:19

So obviously the classic alternative is to sign people up by agreement. And we have been pursuing a strategy that we've outlined in the in the statement of reasons. And obviously we're at a particular point in that process now. And you are rightly sort of asking.

00:24:58:19 - 00:25:39:16

For updates on on how it is going. But if you look across the track record of other comparable projects, um, the percentage of, of landowners that, um, that get signed up in practice varies enormously. Um, and we will, we will obviously be signing up as many as we as we sensibly can in terms of the decision, as it were, prior to um, including compulsory powers in the DCO, which I suspect I suspect is the, the purest question as it were, that your, that you're asking are why are we seeking CPO in the first place? Um, it is all around.

00:25:39:18 - 00:26:00:24

It is all around delivery and it's all around the fact that we wouldn't be able to realistically, for a linear project of this length, we simply wouldn't be able to sign people up with without the threat. And in practice the actuality of of compulsory acquisition through the DCO.

00:26:01:19 - 00:26:05:09

Okay. Thank you very much. Understand your response to that. Um.

00:26:07:00 - 00:26:37:14

Was also helpful yesterday with the presentation that was given in terms of how you'd refined the route pre-submission as well through the various stages. I found that quite interesting as well. Um, thank you. I'm going to move on. Unless anybody has anything that they want to say in regard to the last question. All right. Can you explain whether and how the rights acquired, including those for temporary position, are necessary and proportionate? You may have already covered this in actual fact.

00:26:37:18 - 00:26:46:06

Um, in actual fact, I think you have covered that through your previous answer. Unless you think I'm, I don't want to cover old ground again, so.

00:26:48:17 - 00:26:53:12

To Limbaugh's of the applicant. I'm not sure we could. Add anything? No more.

00:26:53:14 - 00:26:54:12

Don't think what I've.

00:26:55:08 - 00:26:55:29

Said earlier here.

00:26:56:08 - 00:27:00:00

Okay. No, that's fine. In that case, I'm going to go on to.

00:27:02:29 - 00:27:35:05

In terms of temporary possession of land. This is slightly drifting into the questions that might be pertinent to tomorrow, but I'll pursue it for the time being. But we might have to defer to, to tomorrow's hearing. But um, in terms of temporary possession of land, I note that the requirement to specifies that work must not commence before or after a period of five years, whilst Article 25 states that notice to treat, including in regard to temporary possession, must not be served after a period of five years.

00:27:36:02 - 00:28:15:02

I also note that the indicative indicative build programme could be 16 months in general and that the land specified as retained in possession must be returned at an end of one year, beginning with the completion of the date of completion of the date of the completion of that part of the works. Um, I know that there is an exception to that though as well. Um, in terms of calculations. Um, the build programme could be a worst case scenario, 7.4 months or seven years and four months, um, with the land being returned one year later.

00:28:15:13 - 00:28:19:08

Um, is that correct? It's my calculations there, Correct.

00:28:27:27 - 00:28:36:00

Julian Bowles of the applicant. In the real world, that's never going to happen. And I'm just looking to see who's the best person to explain why.



00:28:40:06 - 00:28:42:27

Do you fancy having a go, Mr. Glass, or not?

00:28:44:23 - 00:28:48:28

But James Glass for the applicant. In terms of the actual bill, I think most of those

00:28:51:06 - 00:28:58:11

delays that have sort of been built into that seven year figure, and I'm not too familiar with that that calculation. But the.

00:28:59:29 - 00:29:05:09

Those delays are more likely to be at the front end, not during actual delivery. So.

00:29:10:29 - 00:29:19:17

Apologies. Just clarify, when we get to the seven years, are we assuming that we wait for five years, almost five years after getting the.

00:29:20:00 - 00:29:59:01

Yeah, I mean, that's I think that's the point I'm making if you don't actually, um, put your spade in the ground until four months or four years and 11 months, for example, and that's your starting point. And then you'll build program is, is 16 months. Um, that, that takes us to sorry that takes us to six years in four months and then the return of the land is another month after that. Is that correct? So that's my my calculation is, is wrong is actually although it's seven years, four months, seven years and four months in total to the return of the land in terms of temporary possession.

00:30:00:03 - 00:30:07:06

And that's assuming that you don't put a spade in the ground until the very last point in which you could do it.

00:30:09:24 - 00:30:14:15

Parliament giddy for that, but. Right. Yes. So we.

00:30:16:21 - 00:30:54:17

The temporary position power would allow us to take temporary possession on giving three months notice. The compulsory acquisition powers last for the five year period. So practically, if we didn't go and start work until four years, 11 months, we wouldn't know where our pipeline was and we wouldn't be. By the time we got to the end, we wouldn't still have compulsory acquisition powers to acquire the pipeline in the ground on the plots we needed to. Right. So in timing that that would be an exceptionally foolish decision by the project and I don't think it would ever happen because the compulsory acquisition powers would have timed out while they were still in temporary possession of the land and they would end up with a pipeline and no right to retain it there.

00:30:54:19 - 00:30:55:04

Yeah.

00:30:55:09 - 00:31:09:21

Instead, it was just I think my question was, is in the in the case of a worst case scenario, at what point do you would you start building? Um, you know, is it going to be two years down the line? Is it going to be three years down the line?

00:31:12:05 - 00:31:18:24

It's just just so I've got a clear understanding in my mind how much how long a period of temporary possession is temporary possession.

00:31:26:08 - 00:31:44:29

William Bosworth, the applicant. We wouldn't. We would only be in practice. We would only be using the temporary possession powers once we were ready to go. Yeah, because there would be a whole mobilization that was linked to that. Lots of contracts that would need to be placed and so on and so forth. So, um.

00:31:46:24 - 00:32:17:26

I think the theme that you're getting at is how much uncertainty is there involved in this? Um, and the honest answer is that there is a fair amount because, um, there is obviously a start date for commencement of the project. There's a, there's an effectively an end date, as Mr. McGuinness just referred to, for the use of compulsory powers. This project is under enormous pressure to proceed, um, from, you know, it's getting public money.

00:32:18:07 - 00:32:27:26

Um, the whole reason it got track one status was because it could demonstrate that it could deliver on a particular timeline. Um.

00:32:30:13 - 00:32:59:25

He and I. The gas fields are close to expiry and there is a substantial incentive for DNI to convert those from being operating gas fields to a regulated carbon capture and storage operation. And substantial steps are being taken, as was alluded to.

00:33:02:10 - 00:33:37:22

Think a couple of times to to get on with this project. Now, none of us can control the unexpected, but as it happens on the facts of this particular project, there is huge momentum and intent behind getting on with delivery. But in terms of what the DCO in theory allows for, yes it does. It does allow for a period of time and that's absolutely normal. And yes, that does mean that a particular landowner has a fair amount of uncertainty.

00:33:37:24 - 00:33:54:19

We're obviously engaging with landowners across the board and would be seeking to manage their expectations, you know, in an informal way. Um, but that's probably as much as I can say that's fine.

00:33:54:21 - 00:33:58:29

I think that's a pretty reasonable answer, actually, to be honest with you. Um.

00:34:00:28 - 00:34:08:04

It was about certainty and getting an understanding, and I completely accept the points about the.

00:34:10:04 - 00:34:41:09

The track one cluster status. It's been awarded to it and the pressure to to to deliver such a project. Obviously as an examining authority that we have to test all of these things, even when those those almost obvious elements of before us as well. So, um, thank you for your response. Does anybody want to say anything in response to to what they've heard from the applicant in regard to the questionnaire? Asked.

00:34:43:21 - 00:34:45:21

No indication. So I'm going to move on.

00:34:57:16 - 00:35:23:23

Okay. I'm gonna. Move away from the questions that I've been asking. I'm just going to ask a point of clarification actually. Um, it's in terms of plot 702 um, and the reasonableness of that particular plot. And I don't know if you can put that plot on the screen for me, please.

00:35:29:08 - 00:35:31:22

It's a temporary position to allow access.

00:35:43:10 - 00:36:16:13

So it's the green plot in the the box in the bottom corner of the plan plot 702. Um, obviously representations were made by the landowner in relation to this plot. Um, and my question is about the size of the plot and the width of it. Um. Clearly we've got to avoid talking about the change one request, which is the plots to the to the north in blue. Um, on the northern side of, um, the housing that you see there.

00:36:17:01 - 00:37:03:23

Um, but plot 702 and 703 were part of the original application submission to talking about just those plots at the moment, forgetting about the change request one. Um, that is a very wide plot. Um, my questions were why? Why does it need to be so wide? Um, bearing in mind most of the other access routes into and out of the plot are relatively narrow along along the plot. Um, and also, why, why is it in the middle of the field as opposed to one side or the other? Um, the, the, the person that raised the concern about it, um, was, was querying why, why it had to be in that specific location.

00:37:03:25 - 00:37:20:05

Why couldn't it be moved to the northern boundary or the southern boundary of the field. Now I haven't seen this particular field myself. Think I've driven past it, but not stopped to look at it. So it might be located on the southern boundary for all I know. But from what I've read, it sounds like it's in the middle of the field.

00:37:40:00 - 00:38:13:16

But, said James, classify the applicant in terms of why access is required through there. And again, without sort of losing the existing track that is to the north is considered too small to get significant volumes of construction traffic down. It's particularly given regards to a number of veteran trees, which I think we actually showed up on the map yesterday, not the ones that were starred, because they were sort of out with that discussion. But there are there are a number of veteran trees along what is plot 702 Be.

00:38:13:22 - 00:38:22:23

And it's a narrow track so we don't have the space within the existing track to go past in terms of where it is located

00:38:24:12 - 00:39:03:16

sort of within the field to. But to the south there are domestic properties on on either side. So whichever way you push that towards the edge, you're going to affect one landowner more than sorry, one domestic property more than the other. So would have would have got a similar challenge regardless of which way you would have would have pushed it. And. And suppose as for the the width of it. That's quite a long access down to the working area really. This is access to enable the tunnelling works under 705, which is the, the motorway, I believe it's the M50 653 bodies.

00:39:04:03 - 00:39:42:10

And so sort of direct road access for that quite special piece of tunnelling works down underneath the motorway. So given that it is so long, at some point you're going to have construction traffic, let's say, going one way, one come the other. We'll need to put passing places in there at some point, how many and how far apart they are just in terms of traffic control and the safety of construction works and

access. And you know, as part of the discussion yesterday, we noted there's a veteran tree on the south side of 1702, the very bottom edge, Right? So again, a little bit of that flexibility pieces.

00:39:42:14 - 00:39:49:29

We now know we're going to have to push the access track to the north in order to to mitigate the impacts on on that veteran tree and.

00:39:52:11 - 00:39:58:12

Looking. That's that's probably about all the considerations would have, would have put into into that one in particular.

00:39:58:14 - 00:40:29:21

So think my question would be then um. I think what you're saying at the moment is that that that the width of the access in and out. Um, so from 1702 or sorry, 702 all the way to the end of 77703 um, where it's, it's the same width all the way across before you get to the triangle at the end. Um is, it's wide enough to take two HGVs passing each other along the entire route.

00:40:29:23 - 00:40:30:13

Is that right.

00:40:31:02 - 00:40:55:09

That would be a case if that entire strip was taken. In reality, they're probably going to take less land and install passing places. So again, it's a bit a little bit of flexibility. You'll see at the end in 17, sorry, 703, it sort of flares out as it joins the the pink area where the pipeline would be. Again, that's a bit of flexibility. Depends on where the crossing of the motorway is and where the pipeline routing ends up. The traffic is going to go to the most efficient.

00:40:55:11 - 00:41:25:09

Is there anything that regulates that that you have to have an access in and out that that is wide enough for two HGVs Um, or, or is I'm just thinking outside the box there. Is it possible that you could have it a single width that widens out at several points or 1 or 2 points to enable HGVs to pull into a layby so that they can pass each other? I mean, this goes to the necessity of the width and the land take effectively.

00:41:25:11 - 00:41:42:23

So if you could, I'm not suggesting you do this, but you know, I've got to grapple with the fact that. Unless there's something in regulation that requires you to have it wide enough for two HGVs to pass each other. Why is it so wide? Is it is it reasonably necessary to be that wide?

00:41:44:09 - 00:41:46:12

Searching on behalf of the applicant.

00:41:47:27 - 00:42:19:09

Strictly speaking, no. But good practice on construction sites to allow for safe and reasonable access. We have sort of, I suppose, uses under the construction design and management regulations to ensure safety at a construction stage. And at this stage and as see these plots, that's us enabling a contractor to have enough space so that they can consider they can undertake the work safely and. In reality, yes, they will put passing places in rather than strictly the entire route.

00:42:19:11 - 00:42:34:05

But how far apart they are, how long they are, how wide they are, that that's a technical detail. It's a risk decision that the contractor has to be comfortable with. Yeah. And so it's it is a little bit a flexibility piece in the same vein that we've got flexibility for the pipeline route.

00:42:34:09 - 00:43:00:07

So, so the answer to the question basically is that. The width may reduce at a future point depending on the health and safety requirements of the contractor in terms of bringing equipment into and out of the site using HDTVs. And you won't know that until you reach that point in the design in the design stage. Is that right?

00:43:01:14 - 00:43:02:26

So yeah, that's correct.

00:43:03:01 - 00:43:45:19

Right. Okay. Thank you. All right. Okay. Um. Think I'd be grateful if you could provide a detailed response on that deadline for clearly setting out why? Why it needs to be so, so wide. Um, I mean, I do accept you've got to get around the kink between the end of the right hand side of 1702 and and up to 1703 as it bends around that corner. Um, and also accept the veteran tree argument that you were mentioning before and the, the issues that we were raising yesterday about loss of an invaluable so, so yeah, a valuable resource.

00:43:45:21 - 00:44:28:22

We can't, we can't we're concerned about the loss of that, that, um, those, those trees. But if you could provide me with a detailed responses to, to width and passing bays and health and safety justifications, that would be very helpful if you could enter that into the examination. Thank you. Does anybody else want to say anything with regard to that particular plot or access on 1703 or 1702? No, thank you. Anybody watching the the live streaming, including, um, the digital recording, if they've got any comments in regard to anything they've heard in this section, then please do so by in writing by deadline for.

00:44:29:04 - 00:44:50:15

Just remind everybody. That's Tuesday, the 20th of June 2023. Does anybody else have anything that they want to say in regard to this particular item? And just to remind you, it's how it's intended to use the land with a reasonable alternatives have been explored and whether the right sort of legitimate, proportionate and necessary.

00:44:53:00 - 00:44:58:03

Get no indication from any party in the room or virtually. So I'm going to move on.

00:45:06:16 - 00:45:34:26

I mean, moving on to crown interests, statutory undertakers, special category, land compensation funding and other matters. I want to start, if at all possible, with Crown interests. Um, the applicant's response to first round of written questions. Rep 1002. The applicant states at Q1 616. The communication has commenced with Crown Estates, Department of Transport, Ministry of Defence and the Welsh Government.

00:45:36:20 - 00:45:37:12

Um.

00:45:38:15 - 00:45:46:05

And requesting progress in discussions leading to consent with regard to to discussions leading to consent. Um.

00:45:48:11 - 00:46:17:00

Given limited impact on Crown rights. It's anticipated that consent would be forthcoming. I'm slightly truncated that sentence, but they've also indicated you also indicated that negotiations have been

ongoing with the Welsh ministers since May 2022. An updated heads of terms have been issued and discussions continue. Can I have an update with regard to Crown interests, please, and how they're progressing?

00:46:20:11 - 00:47:11:00

Thank you, Vicki Bramhall, for the applicant. And so as you say, so we provided a response to all the plots associated with various Crown interests. And as part of our response to that question, 1.6. 16. Um, and I'll go through each in turn if that's okay, and set out where we are with each of the plots and each of the negotiations. So starting with the Secretary of State for Transport, we identified at the time that we were providing that submission that there were a number of plots for temporary possession, subsurface acquisition and acquisition of land, and it was confirmed prior to deadline three that the rights formerly believed to be held by the Secretary of State for transport over plots 202 and 203 now lie with National Highways Limited.

00:47:11:02 - 00:47:43:02

And as such, those plots no longer are no longer considered to be crown land. And that change was made to the book of reference submitted at deadline three. So that's rep 314 and 15. Yep. It's now also been confirmed by the Department for Transport that the rights listed in all of the other plots. So. 425 01502503 and 510 have also transferred to national highways. And as such, we're in discussions with national highways already. They're already listed in those plots in the book of reference. And and those plots are now no longer considered to be crown land either.

00:47:43:17 - 00:47:58:00

So that change will be up, updated and reflected at deadline four. In the book of reference, that will mean that the Secretary of State for Transport has been removed from the book of reference. They've got no no remaining interests and no crown consent is required from the Secretary of State for transport.

00:48:05:21 - 00:48:06:27

Thank you. Okay.

00:48:07:14 - 00:48:46:03

Moving on to the secretary state for defense. So there's a couple of changes to plots that have been made, um, from the list provided in that applicant's response to question 1.6. 16. And that changes to remove plots 627 and 710 and it's a review of the original data sets. We have some data sets that informed that that inclusion in the original book of reference, we've reviewed them and identified that actually the apparatus in question is not actually in those two plots. So that's 627 and 710 And so those two plots are no longer considered to be crown land and that change will also be updated and reflected at deadline for.

00:48:46:20 - 00:49:11:29

And we have been attempting to contact the Secretary of State for Defense to both confirm that and also to seek Crown consent. And it was last followed up last week. And at the moment, we're still we're still seeking that. But again, um, as you as you mentioned in your opening, it's anticipated that given the limited impact on the Crown interests there, that the consent will be forthcoming when we managed to get through to them.

00:49:19:09 - 00:49:20:11

Thank you. Okay. Yeah.

00:49:20:27 - 00:49:21:21

Um, moving on.

00:49:21:23 - 00:49:51:27

To the Welsh ministers, then. So it's now being confirmed at the right that were formally believed to be held by the Secretary of State for Wales over 1826. So it was the case that we had one plot held by the Secretary of State for Wales and a series of other plots that were held by the Welsh ministers. The Secretary of State for Wales plot has now been confirmed to also lie with the Welsh ministers. As such, that plot has been added to the list required for Crown consent for the Welsh ministers. That change was made to the book of reference submitted at deadline two.

00:49:52:19 - 00:50:20:03

That's Rep two, 12 and 13 and as set out in the updated schedule and negotiations with land interests that are updated at each deadline. Um, negotiations have been ongoing with the Welsh ministers since May 2022 and there's ongoing discussions at the moment and I know they've been in touch recently to, to, to talk about the heads of terms and pick up those, those comments and queries on that and discussions continue on on that.

00:50:28:13 - 00:50:28:28

Thank you.

00:50:29:24 - 00:50:48:16

The Secretary of State for Wales. Then, as as just mentioned, the rights that were formerly believed to be held by the Secretary of State for Wales over plot 1826 now lie with the Welsh ministers. As such, the Secretary of State for Wales has been removed from the book of reference and no Crown consent is being sought from them as they have no remaining interest in in the book of reference.

00:50:51:15 - 00:51:27:01

Thank you. The last one is the King's Most Excellent Majesty and right of his crown. The Crown estate. And so they have an interest in mines and minerals over plot 2204. And no changes have been made to that. That is still there's still the situation. The Crown Estate has passed our request to the relevant staff member internally in order to be able to engage with us. We're expecting an update from them by the end of this week. And similarly, it's a temporary plot in use at the surface where they have mines and minerals interests. So we anticipate that there's a limited impact on the crown rights and we expect that they should have no issues with with what we're trying to do.

00:51:28:28 - 00:52:06:26

Okay, I understand that. Um, I think it's wise to keep pressure on. Absolutely. The Crown Estates to to respond because my last project, we closed the examination before a response was received and therefore it couldn't be taken into account. And I had to do quite a lot of work in relation to advising the Secretary of State on what to do in the event that it wasn't resolved, only to discover it had been resolved by the time the Secretary of State got to it. So, um, if you can get pressure up on them and resolve it before it closes, it will help me in terms of having less to write.

00:52:06:28 - 00:52:08:21

Thank you, sir. Thank you, sir.

00:52:08:27 - 00:52:09:29

Understood. Thank you.

00:52:10:09 - 00:52:47:23

Um. Okay. Moving on. Does anybody have anything they want to say in relation to Crown land? Okay. I've got one question on Crown land or. Hold on. I have a couple. No, just one question on Crown land. Um, Canal and River Trust have made a comment that the waterway at Plot 1803 is registered as infrastructure trust property and that a separate consent is required from the Department

of the Environment, Food and Rural Affairs. Um, if that is the case, should it be listed as a crown interest in part four of the Book of reference?

00:53:11:01 - 00:53:28:12

Um. At the moment, we don't consider that to be. It's not listed as being a crown plot that we don't consider to be a crown interest in land. But we are in discussions with for us to understand the nature of, of that entity and, and understand how that plot should feature and whether it does count as Crown land.

00:53:28:20 - 00:53:40:27

Okay. If the Canal and River Trust are with us, are you able to shed any light on that? Question is whether you think that it needs to be included as Crown land within the book of reference.

00:53:43:08 - 00:53:54:21

Uh, James Garbutt. What? How do we don't have specific instructions on, on that point, sir, but it's something that that can pick up with with the applicant's legal team.

00:53:55:29 - 00:54:11:20

Okay. Um, in that case, if you could review and, um, give a response on that point at deadline for and we'll mark it as an action point, please. Which is, which is our first action point, by the way. So.

00:54:13:27 - 00:54:24:00

Thank you very much for the Canal River Trust. Um, has anybody got anything to say with regard to what they've heard with regard to 18 zero four? 18 zero four.

00:54:26:07 - 00:54:28:12

803. Sorry. My apologies.

00:54:30:15 - 00:55:03:04

No. Hands up. No hands up in the room. So I'm going to move on. I want to move on now to special category land. Um, and this is something that's vexing me a little bit. Um, and it's in regard to the open space at Plots 1702 where the applicant is seeking a permanent acquisition of the subsurface. Um, the size of the plot is 1800 and 15m<sup>2</sup>. Um, and the applicant stated that there's no interference with the surface as they're going to be using, um, trench installation techniques and specifically,

00:55:04:27 - 00:55:43:11

um, hydrodynamic directional drilling. And correct me if I've got that wrong. Um, however, they also state that they have the rights are also sought with regard to drainage connections which would involve some minor works, albeit short lived to the surface area. Um, the applicant is quoting both sections 131 132 of the Planning Act 2008. Um, and um, but in terms of section 131, um, when you're using section 132 to justify, um.

00:55:45:14 - 00:56:20:15

This type of acquisition. Section 132 sorry. 131 brackets two supplies. Section 131 if you are using section 132 um, the application applicant is arguing there's an exemption under section 132 three. Um, that applies to the older land when burdened with the order rights. Um, and that there will be no less, it will be no less advantageous than it was before. The persons listed in sections A to C of that part of section one 332 um.

00:56:23:11 - 00:56:58:01

However, there must be a period of time, albeit short lived, where the public would be disadvantaged in my. View with regard to the drainage connection works, albeit that those works are short lived. Um, as such, I'm going to ask how the proposed development would be exempt under sections 131 or 132.



When drainage connection works, clearly dig a trench through the playground or the open space. Um, and would affect the public using the open space, even be it for a short period of time.

00:56:58:23 - 00:57:32:12

Please, could the applicant explain or justify their position further in this regard? It would be assistance if the applicant could direct me or the panel generally to any other development consent orders where drainage works within special category land includes some minor works to the surface where short lived or not, there's been an exemption under section 132 three applied and accepted when the has been made. If the applicant could respond, please. You always have the opportunity to consider that at length and come back at deadline for as well.

00:57:32:14 - 00:57:34:27

It might need you to have some further consideration.

00:57:38:08 - 00:57:44:02

For the applicant? Yes, sir. Think we would like to respond in writing? Giving. It's quite a nuanced legal point. Yes.

00:57:45:16 - 00:58:07:15

And I apologize for everybody to the complexity of that question. But it's it is it is a valid point that needs to be made because I have to make some sort of justification as to why if an order is made special, category land is included within it. So and indeed, if there isn't an exemption, it has to go through a special parliamentary procedure to be included.

00:58:10:03 - 00:58:15:03

Uh, does anybody else want to say anything with regard to that nuanced question?

00:58:17:16 - 00:58:21:16

Thank you. No indications in the room or virtually. Um.

00:58:23:18 - 00:58:31:01

The point that might help you. And again, that you might want to think about is the definition of.

00:58:33:02 - 00:58:42:20

Open space, which is primarily set out in Section 19 four of the acquisitions of Land Act 1981. As far as I understand it, um.

00:58:44:10 - 00:59:25:27

That basically says it's land laid out as a public garden or used for purposes of public recreation or land and disused burial land. Land is being used as a land being a disused burial ground. Um, I think my question is, is these are the whole of plots. 1702 open space within that definition. Um, you know, are there areas where the drainage works could be proposed within the order limits which lie outside of the definition of special category land as open space? Again, you might want to revert and come back at deadline for with regard to that question.

00:59:26:09 - 00:59:35:05

Um, I mean, at the moment, as far as we're concerned, from what you've said is open space and special category land. But it's, it's an avenue you might want to explore.

00:59:42:04 - 00:59:48:29

Uh, Paul McGuinness. Thank you, sir. Welcome back to your writing. Because even cannot Google all of those references quite that quickly, I'm afraid.

00:59:51:23 - 00:59:59:10

Very much. Does anybody else want to comment on open space or special category land? Thank you.

01:00:12:02 - 01:00:37:09

I want to move on now to statutory undertakers. In terms of statutory undertakers, can the applicant list or briefly set out the current position where they are in relation to any application made under section 107 of the Planning Act 2008 and not withdrawn? Um, that's in relation to special undertakers, statutory undertakers land um, following.

01:00:40:17 - 01:00:56:02

And in that case, yes. Just stick with that question for the moment as opposed to mixed questions up. So in terms of statutory undertaker land, can the applicant list briefly and set out the current position in relation to applications made under section 127 of Planning Act 2008 and not withdrawn, please.

01:01:19:18 - 01:01:38:03

A problem for the applicant. I'm not sure I have terribly much to add to our written representations on this point. Right. Fundamentally, the applicant does not accept that there is serious detriment to any statutory undertaking at this stage, given the very high bar for that test. They believe we are directly due to some precedent on you Have

01:01:39:24 - 01:01:51:06

we have, as requested, put in the table addressing that and addressing the other statutory undertaker tests. I don't have any meaningful update to give you whether protective provisions discussion is ongoing, I'm afraid.

01:01:51:17 - 01:02:12:04

Right. Okay. That sort of answers my next question, actually. Um, I'll ask it anyway, but thank you for that. Um, indeed, as I've already alluded to, second round of written questions, which is released next Tuesday, I think on the 15th of June. Um, Thursday, I think 15th of June. Um.

01:02:13:20 - 01:02:37:07

That will include questions in relation to to this specific point that addressed to both the applicant and national highways specifically. So if you're having to a deadline five to respond to second round of written questions. So hopefully that will give you further time to contemplate on our response. So, um.

01:02:38:28 - 01:02:44:20

Bearing in mind we're going to be talking about protective provisions tomorrow. Can the applicant briefly, um.

01:02:47:06 - 01:03:19:24

Set out briefly whether protective provisions to all statutory undertakers who are affected by parties are being sought again. Can can the applicant set out briefly where the protective provisions related to also Chandlers who were affected parties are being progressed and what stage those agreements and protective provisions have reached with each relevant statutory undertaker, including whether they've agreed or reached agreements of the protective provisions in a statutory form with the relevant statutory undertaker.

01:03:35:26 - 01:03:41:21

We will be coming back to protective provisions tomorrow. So if you want to defer to protect your provisions tomorrow, I'm happy to do that.

01:03:42:04 - 01:03:50:07

Paul McKinney for the applicant apologies, sir. Yes, we've prepared that, as in my notes for tomorrow. Didn't bring those notes with me today. I do apologize.

01:03:50:09 - 01:04:04:15

Fine. I'm sort of mixing. Mixing it up a little bit, and I'm aware of that. It's just the nature of these sorts of hearings. Sometimes you delve into other aspects that you might be dealing with at a later point. So I'm happy to defer to protective provisions tomorrow.

01:04:13:24 - 01:04:49:28

Okay. Well, that's pretty much the end of my questions on this. So what I would say is if there is any affected person or interested party taking part in the compulsory acquisition or watching on live or watching the digital recording that that will be published on the website later, you are still welcome to make comments provided you do so in writing and by deadline for which is Tuesday the 20th of June 2023. Um, unless anybody else anything else they want to say with regard to crown rights and special category land, etcetera.

01:04:50:02 - 01:04:54:19

I'm going to move on to agenda item seven. So this is your last opportunity under this topic heading.

01:04:56:17 - 01:04:59:11

Get no indication at all. So I'm going to move on. Um.

01:05:04:11 - 01:05:15:25

This is any other acquisition or temporary position matters. Um, and I think Matthew's down to Mr. Shrigley Are you doing this one or am I carrying on? I'm happy to carry on if you want.

01:05:18:07 - 01:05:19:29

Yeah. Will do. All right.

01:05:20:08 - 01:05:20:26

Okay.

01:05:21:18 - 01:05:47:28

Um, does any affected person wish to make any oral submissions on compulsory acquisition or temporary possession matters generally? Um, under this heading that you haven't already made earlier on in the hearing. Again, another is a final opportunity for you to make comments on temporary compulsory acquisition or temporary possession today or matters that we've discussed today outside of change request one and two.

01:05:49:20 - 01:06:00:00

No indication in the room or on the virtual side of things. So I'm going to move on to item eight. And this is Mr. Shrigley.

01:06:01:02 - 01:06:02:25

It is. Thank you for that. Welcome.

01:06:05:06 - 01:06:12:09

The basically, are there any other matters anybody else wishes to raise? This is any other business. Um.

01:06:14:20 - 01:06:25:16

I would extend that to the people online as well. And no one's coming forward. So I'll take that as a no. So that leaves me to summarize the action points. There wasn't many.

01:06:27:17 - 01:07:11:15

I think there was possibly more than one. I've got a query in relation to plot 7.02. There was questions from the panel on the width of the tunnelling works relative to health and safety and vehicle movements and veteran trees. There was a response agreed for that for deadline for action. Point number two was a query to the on the Canal and River Trust plot 8.03, and that was in relation to Crown land and aspects.

01:07:12:21 - 01:07:31:02

Again deadline for. And there was a third action point in relation to plot 17.02. That's special category land again and the use of public open space. There was a couple of aspects on that.

01:07:33:19 - 01:07:37:05

That aside, I don't have a record of anything else. But please tell me if I'm wrong.

01:07:39:00 - 01:08:11:02

And no one's raising anything else, so we'll move on. So, um. We'll be publishing the action points from today's hearing in the next day or two. And there's no other relevant business to declare. So deadline for is Tuesday, the 20th of June 2023. Um. And if there are any other comments from affected persons or interested parties watching on the live stream, the same date would apply for any comments from them.

01:08:11:04 - 01:08:49:27

That's Tuesday, the 20th of June 2023. That leads me to thank you very much. Thank you very much for your participation in the hearing today. It's been extremely useful for both of us to be clear. And this is closing now of the hearing session. But a further compulsory acquisition hearing is still going to be held and this will be in relation to the primarily the change requests as a result of certain amendments being considered for the scheme.

01:08:50:09 - 01:09:05:12

Once again, I'd like to thank all parties for attending. The time is now. 1528 and this hearing that the proposed high net carbon dioxide pipeline project is now closed. Thank you.