

HyNet_10 Aug_CAH2_PT1

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FULL TRANSCRIPT (with timecode)

00:00:05:02 - 00:00:25:01

Good morning and welcome aboard a dark crystal. It's now 930 in the time for this meeting on high net carbon dioxide pipeline infrastructure project to begin. I'd like to welcome you all to this compulsory acquisition hearing, which is the second hearing that we are holding, and it is now open.

00:00:26:22 - 00:00:35:12

Before the examining authority introduced itself. I'd like to deal with a few preliminary matters. This would be a good time to switch off mobile phones. Or at least turn them to silent. Please.

00:00:41:03 - 00:01:03:02

Can the case team confirm that you can hear me and that the meeting, recording and live streaming of the suspense has started? Please. Thank you. Can everybody in the room hear what I'm saying? Yeah. Get notes and everybody online. It's really odd, but if you can't hear me, can you put your camera on or put your hand up?

00:01:05:15 - 00:01:08:03

I'm getting no indication, so I'm going to move on.

00:01:13:11 - 00:01:20:20

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

00:01:23:02 - 00:01:26:07

No indications either in the room or online. So I'm going to move on.

00:01:27:25 - 00:02:01:12

There's no fire alarm drill test or drill scheduled for today. So in the event of you hear in a fire alarm, it is a real event and we must leave in the event that fire alarm does go off. There's a number of access routes to to get out of the building. The easiest ones are directly behind me here, which goes through into a lobby and then out onto the roof. If you turn immediately left, it goes down a fire escape stair straight down into the road in front of the hotel, onto the pavement.

00:02:01:18 - 00:02:31:24

And the congregation point is on that side of the road opposite the hotel entrance. Alternatively, you can go through that door in the top left hand corner of the room as I'm looking at it. That leads on to another conference room. You go through that conference room, you then turn left. It takes you out onto another roof. You turn right and it takes you to another stairwell that leads down to the same path. And you congregate again in front of the hotel on the opposite side to the main entrance.

00:02:31:26 - 00:03:03:20

If we do have to congregate outside, just do it safely. Try and avoid stepping into the road, etcetera. I'm just conscious there will probably be a lot of people there if it does happen. So just be careful and make sure you're safe. The other most important thing is toilets and where they're located. Um, if you

go out through the doors on my right, the toilets, the ladies toilets is immediately to your left and the gentleman's if you go into the room that's opposite this where the teas and coffees are.

00:03:04:07 - 00:03:10:12

There's a door in the top left hand corner and the toilets are on the left if you go through those doors. Um,

00:03:12:11 - 00:03:43:19

moving on to introductions. My name is Christopher Butler. I was appointed on the 17th of January 2023 under Section 65 of the Planning Act 2008 under delegated authority from the Secretary of State as lead panel member to examine this application. I'm a chartered member of the Town and Country Planning the Royal Town Planning Institute, and have academic qualifications in town and country planning. I've made a declaration of interests responding to the planning inspectorate's conflict of interest policies and can confirm that I have no declared interest in relation to this appointment.

00:03:44:14 - 00:03:48:03

I'm now going to ask my fellow panel member to introduce himself, Mr. Shrigley.

00:03:49:27 - 00:04:20:20

Bazaar. Good morning. My name is Matthew Shrigley. I was also appointed on the 17th of January 2023 as a panel member to examine this application under Section 65 of the Planning Act 2008 under delegation from the Secretary of State. I'm a sound planner and a full chartered member of the Royal Town Planning Institute. I've made a declaration of interests responding to the Planning Inspectorate, conflict of interest policy, and I can confirm I have no deliverable interest in relation to this appointment.

00:04:21:29 - 00:04:56:06

Together, we constitute the examining authority for this application and we will be reporting to the Secretary of State for Energy security and net zero with a recommendation as to whether the development consent order should be made. Also present today are the members of the Planning Inspectorate's case team working with both Mr. Shrigley and I on this national infrastructure project. At this event, we have Mr. Jake Stevens, who is in the corner here. He is the case manager for the National Infrastructure Project and he's leading the case team here today.

00:04:57:03 - 00:05:26:01

Additionally, online, we have Phoebe Chalice and Jennifer Savage, who work in planning specialist operation Group two and who are providing online support for the virtual aspects of this blended event. Technicians from CVS are also in attendance here solely for the purpose of managing the audio and visual services, including the recording and live streaming of this meeting. In addition, a translator for Simon Translations is attending for the purpose of translation from Welsh to English.

00:05:27:21 - 00:06:00:12

I would also like to add that other colleagues from the Planning Inspectorate may join this compulsory acquisition as observers, either in person or virtually. And as this is part of the planning Inspectorate's commitment to continuing professional development. If you have any questions or concerns about today's event, please speak with a member of the case team here today or Mr. Stevens as he's the only one. But if you're that's if you're present in the room. Alternatively, contact a member of the virtual case team if you're attending the event online. That's the end of introductions from our point of view.

00:06:01:02 - 00:06:35:15

Um, so we're moving on to attendees introductions. Um, firstly, wanted to acknowledge and welcome all those who are attending today, including those watching the live stream. Welcome and thank you for joining us. I'd like to start with introductions from attendees. When read out the names of the

team, all members of that team present in person. Please could they introduce themselves one by one, followed by introductions from the virtual attendees of that team? My running order is currently the applicants team Chester, Cheshire West and Chester Council Flintshire County Council.

00:06:35:21 - 00:07:04:01

Mr. Gartland, who is chairman of Litchfield, who's here on behalf of Insert Limited, and Sarah Woods from Sutherlands, who are also here on behalf of Insert Limited Mr. Tilney of Stephens LLP and Mr. Baker Fisher Jermaine, who are both here representing Mr. and Mrs. Altschul. Um, as far as I'm aware, we have no attendees from the Environment Agency,

00:07:06:03 - 00:07:23:21

Natural England Natural Resources, Wales Woodlands Trust, National Highways Canal and River Trust. Um. Welsh government. Scottish Power Energy networks. Carter Jonas on behalf of Travelodge. They've not indicated whether they're attending today and they're not on the attendance list.

00:07:27:21 - 00:07:39:23

In terms of other interested parties. I will then ask those present who wish to speak to identify themselves or indicate what items they wish to speak on. So starting with the introductions, can I start with the applicants team, please?

00:07:44:11 - 00:07:47:24

Paul Director Burgess Salmon LLP Lawyers to the applicant.

00:07:50:13 - 00:07:54:00

Julian Boswell Partner. Burgess Salmon for the applicant.

00:07:56:00 - 00:07:58:27

Shaun Williams Land Acquisition Lead for the applicant.

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

Vicki Brownhill land referencing lead for the applicant.

00:08:06:07 - 00:08:11:12

David Walker speaking both the applicant and James Glass pipeline engineer on behalf.

00:08:14:13 - 00:08:20:14

Thank you for that. Um, then I'm going to move on to Cheshire West and Chester Council.

00:08:21:22 - 00:08:31:24

Michelle Spark on behalf of Cheshire West and Chester Council, I'm a partner at Partners and I'm the legal advisor for the Council. I'll just pass on to my client and thank you. Okay.

00:08:45:25 - 00:08:50:13

Thank you for that. Can I ask Flintshire County Council to introduce themselves, please?

00:08:51:15 - 00:08:54:10

Susan Cordner, solicitor with Flintshire County Council.

00:08:54:16 - 00:08:55:20

Thank you very much.

00:08:58:04 - 00:09:01:07

Mr. Gartland. Would you like to introduce yourself, please?

00:09:01:09 - 00:09:08:01

Thank you, sir. Justin Gartland, director of Litchfield Acting Forensic Limited.

00:09:08:08 - 00:09:12:19

Thank you. And Sarah Woods. Eversheds Sutherland, please.

00:09:12:27 - 00:09:23:08

Yep. Sarah Sutherland, acting on behalf of Insert Limited, could just note that our client hasn't been able to make it today, so there may be points that we need to go away to take instructions on and come back to you.

00:09:23:14 - 00:09:38:24

That's that's perfectly fine. So if you do need there's a point in the introductions where we talk about that anyway. But if you do need extra time, just indicate and we'll make a note. Um, Mr. Tilney of Stevens Gowen LLP, please.

00:09:40:11 - 00:09:42:09

Hello. Good morning. My name is Duncan Tilney.

00:09:42:11 - 00:09:44:17

I'm your on Mr. Tilney.

00:09:46:13 - 00:09:48:03

Hello? Can you hear me? Yes. Yeah, I can.

00:09:48:05 - 00:09:48:21

Hear you now.

00:09:49:06 - 00:09:56:10

Uh, Duncan Tilney, partner at Stevens Crown Solicitors on behalf of Mr. and Mrs. Ultium of Newbridge Farm.

00:09:56:23 - 00:10:01:09

Okay. Thank you very much. And Mr. Baker of Fisher German, please.

00:10:02:04 - 00:10:07:06

Good morning. Richard Baker, Partner, Fisher, German, acting on behalf of Messrs. Ultra and Newbridge Farm.

00:10:08:16 - 00:10:19:08

Thank you very much. Are there any other interested parties present either in the room or joining us virtually, who would wish to speak during this hearing? If so, could those in the room raise their hand, please?

00:10:21:24 - 00:10:30:12

It. No indication. Those online virtually. If you'd put your camera on and or use your raise hand function. If you would like to speak, please.

00:10:33:21 - 00:10:37:22

I'm getting no indication, so I'm going to move on. So thank you very much for that.

00:10:42:02 - 00:10:51:16

So I'm going to pass on to Mr. Shrigley now who is going to run through the procedure for running this compulsory acquisition hearing, please. Thank you.

00:10:52:00 - 00:11:02:20

I appreciate that. Some attendees were here yesterday, so you may have already heard this information, but nevertheless need to still read it out and make everyone aware.

00:11:05:01 - 00:11:17:05

Firstly, I'd like to address language. We recognise that this is a national infrastructure submission and a cross-border development proposal affecting both Wales and England as such.

00:11:19:09 - 00:11:54:22

We aim to make this hearing and the the subsequent proceedings as inclusive and open as possible. We have translation facilities available in that respect. In terms of persons being at this event in person. If you do wish to address the examination panel in Welsh, a translator is available here and will translate from Welsh to English for those persons attending in person wishing to listen to the translation in English, all you need to do is switch on the headphones provided and listen through them.

00:11:54:24 - 00:12:25:08

And you wear the the band under the chin, not over the head. For anybody attending the hearing virtually. You will have seen from the joining instructions that there is a choice of channels in relation to the teams meeting. One channel accommodates those wishing to speak and to participate in Welsh and the other channel accommodates those wishing to speak and participate in English. We're not expecting a lot of this to be taken, but I do need to make everybody aware.

00:12:25:10 - 00:12:57:03

The in instructions also advise those wishing to take part by telephone that simultaneous translation is also available and can be taken using that method. Should you experience any issues regarding the translation methods provided, you could raise those with the case team In the first instance, the case manager, Mr. Stevens, is able to speak Welsh and he's able to to provide assistance if it's needed

00:12:59:00 - 00:13:00:06

in terms of.

00:13:02:12 - 00:13:08:01

Contributions. We do welcome both English and Welsh contributions if you need to make that.

00:13:13:18 - 00:13:24:10

That's all I have to say in terms of language. I've got a few words now concerning the event format. It's it's a blended event. It allows both in-person

00:13:26:13 - 00:13:52:11

attendance and virtually through Microsoft teams. The examiners authority attending this hearing are doing so from Chester, as well as the attendees for those attending virtually. Please be rest assured. Although we might not be always looking at the screen, we are listening to you at all times. And.

00:13:54:28 - 00:14:08:25

To avoid any noise disturbances. We request that people keep the microphones switched off. And that that will help during any any discussions.

00:14:13:23 - 00:14:37:18

If anybody is watching the live stream and or listening to the digital recording, you might find it of assistance to have a copy of the agenda open in front of you. It is available in the Documents library accessed via the project page of this proposal on the National Infrastructure website and the document document reference number is 027.

00:14:39:13 - 00:15:13:02

Um, nothing's been declared at the moment, but if anybody does have any medical reasons or requires a break at a specific time, if you could let the case team know and will hopefully adjust the program to to meet anybody's particular needs. Turning to timings now, we aim to take a 15 minute break at approximately 11 a.m. and we aim to finish around 12:45, and that's to allow, if if possible, a lunch break before this afternoon's open floor hearing starts.

00:15:14:22 - 00:15:27:26

And once the business listed on the agenda is concluded, this hearing will close. So as I say, we're hoping to do that about quarter 12:45 is a is a general time.

00:15:31:05 - 00:16:06:10

For virtual attendees. If you do decide to leave the meeting during the breaks, you can rejoin using the same link provided in the initial invitation email. If you are watching the live stream then please refresh your browser to resume each subsequent session. Please note that the chat function in teams is not being used today, so we will not be using any messages. None should be sent via the chart. It's not being monitored. If at any point in the meeting you can't hear me or you wish to speak or you can you.

00:16:06:25 - 00:16:26:01

Well, we ask that you either raise your hand if you're in the room or if you're a virtual attendee. Can you turn your camera up on if it's turned off and will recognize that you want to speak and invite you in at appropriate time? Um.

00:16:28:17 - 00:16:45:04

Just a few more points about this. The case team may have already explained what to do if you lose connection, and those would be the point of contact if you need to. You know, if you do need to sort out any technical issues if those arise.

00:16:48:05 - 00:17:24:13

In terms of general data protection regulations, I'd like to make you aware or everybody aware in this this hearing that this event is both being live streamed and recorded. The digital recordings that we make are retained and published. They form part of the public record, and that can contain your personal information and to which the General Data Protection Regulation applies. The Planning Inspectorate's practices to retain the recordings published for five years from the Secretary of State's decision on the development consent order.

00:17:24:15 - 00:17:44:29

Consequently, if you participate in today's hearing, it's important for you to understand that you are being recorded and therefore you consent the retention of publication of the digital recording. It is very unlikely that we as panel will ask you to put sensitive or personal information into the public domain.

00:17:46:23 - 00:17:59:21

Indeed, we we would encourage you not to do that. However, if for some reason that it is necessary that you need to refer to sensitive or personal information, we would encourage you to speak to the case team in the first instance.

00:18:02:29 - 00:18:18:27

The only official record of today's proceedings is the digital recording that will be placed on the project page of the national infrastructure website. Tweets, blogs or similar communications arising out of this hearing will not be accepted as evidence in the examination.

00:18:20:28 - 00:18:59:09

Now moving to the purpose of the hearing. The purpose of the compulsory acquisition here in itself. Rather, we have we are conducting this hearing in accordance with sections 92 and 94 of the Planning Act 2008 and the infrastructure planning examination procedure rules specifically rule 14 relating to procedure at hearings. I would remind you that Section 94 eight of the 2008 Planning Act allows the examining authority to refuse representations made at a hearing, including representations made.

00:19:00:21 - 00:19:30:16

An exercise of an entitlement under section 92. If the examination examining authority, rather, considers that the representations are irrelevant, vexatious, frivolous, they relate to the merits of policy set out in national policy statement. They repeat representations already made in any form by any person or relate to compensation or compulsory acquisition of land.

00:19:33:26 - 00:20:04:10

Or an interest in right over the land. Now, those are what the rules actually state Rule 14 two of the examination procedure rules requires that at the start of the hearing, the examining authority shall identify matters to be considered. In that regard, an agenda for this hearing was published on the Planning Inspectorate's National Infrastructure Project Web page on the 1st of August 2023.

00:20:05:09 - 00:20:27:07

It is for guidance only. We may add or change issues as we progress through it. We will seek to allocate sufficient time to ensure and the proper consideration of each item. Should the consideration of the issues take longer than anticipated, we may defer to written questions if need be. That said.

00:20:29:11 - 00:21:08:14

We're optimistic that we can go through all the items on the agenda today. I don't think there'll be a problem in that regard, or at least we're not expecting that. To be clear, some matters may be pursued through rounds of written questions if need be. A further round of written questions is due to be issued on the 15th of August, and we will allow matters to be pursued further if required. The examination authority also has the ability to seek further information under Rule 17 of the Infrastructure planning Examination Rules 2010.

00:21:08:19 - 00:21:09:25

Should that be required?

00:21:12:10 - 00:21:28:20

This just a little bit more for me to go through and. This hearing will take the form of a structured discussion which will be led by Mr. Butler. Based on the above mentioned agenda,

00:21:31:07 - 00:21:40:16

you'll see from that agenda that this hearing is specifically about the power sought by the applicant through the draft development consent

00:21:42:08 - 00:21:58:12

order for the compulsory acquisition of legal interests in and and rights over land that the applicant contends is required to take the proposed development forward. And that has already been published.

00:22:00:05 - 00:22:35:14

It's also to discuss and go through the applicants and change requests which are related to the matters would assist and to allow any affected person or interested party to make oral representations on the provision of compulsory acquisition of additional rights over the land set out in the applicant accepted change requests and any additional affected person to make oral representations on matters relating to the proposed compulsory acquisition of land and rights in general.

00:22:39:03 - 00:22:52:17

The purpose of any discussion is for the examination authority or examining authority, rather, to ask questions and to seek clarifications on matters it needs to so that all issues are properly aired and understood.

00:22:54:08 - 00:22:54:23

Um.

00:22:57:23 - 00:23:23:16

Only those affected persons who have already introduced themselves or have indicated a wish to take part in today's hearing intended to speak. And we're going to invite those to speak at the appropriate times and where necessary, we will call the applicant and those parties present to address the the panel to respond to any questions.

00:23:32:01 - 00:23:33:11

I would ask that.

00:23:38:17 - 00:23:45:28

If there are any comments on anything to be discussed at the hearing today, especially the applicants responses.

00:23:48:29 - 00:23:50:10

You're able to put.

00:23:52:09 - 00:24:02:02

Any comments in writing and submit them. Submit them to the examination by deadline, seven nights, Tuesday the 5th of September 2023.

00:24:03:29 - 00:24:30:24

The examination is primarily a written process, and we've already asked a significant number of questions in relation to and temporary possession and our first rounds and second rounds of written questions. And you'll see from the examination timetable, as I've already alluded to, there are further questions still proposed with that in mind.

00:24:42:22 - 00:24:45:23

Okay. Need to just make everybody aware that.

00:24:47:17 - 00:25:27:09

We are familiar with the documents that you've already sent in. So when answering a question, you don't need to repeat at length something that has already been submitted. And we would be grateful if you could please use the appropriate Pens examination library reference number if you have that available. Furthermore, we ask you to if you do use an abbreviation or acronym, you inform us what this relates to for the benefit of all parties watching the hearing or participating in person.

00:25:30:12 - 00:26:13:21

If you can't answer any questions being posed or asked by the panel member or require information to or time to get the information requested, rather than giving a restricted or potentially incorrect answer, you what we would request is that you defer this to be responded to in writing. We can then either request that or note an action point to be submitted by deadline seven, which is the 5th of September or the next written round of questions if time allows.

00:26:17:27 - 00:26:35:14

A few more final, final notes here. The the hearing is being held so that the examining authorities are ultimately able to test the applicant's contentions in the context of applicable legislation, policy and guidance.

00:26:40:17 - 00:26:51:28

We will take into account not only what is heard today, but also the relevant associated information in the application documents, oral submissions and written representations.

00:26:55:13 - 00:27:34:24

This compulsory acquisition hearing will also be taking evidence in relation to applications through the development consent order of temporary possession or use of land or rights. Parties with an interest in land that is affected by such a compulsory acquisition request are known as affected persons. All affected persons have been notified of this compulsory acquisition hearing and have a right to be heard in relation to any objection about the effects of a compulsory acquisition request on their interests in land.

00:27:35:14 - 00:28:12:00

The examining authority has therefore notified all those parties affected by the application for the proposed compulsory acquisition powers related this hearing and invited those who have made a substantive objection to the proposed compulsory acquisition powers to address this hearing today. Moving now to the details of today's hearing, we will be examining the application of for compulsory acquisition rights in the context of the powers provided by the Planning Act 2008, specifically Sections one, two, two and one two, three.

00:28:13:04 - 00:28:52:05

A link to that legislation is available on the main national infrastructure planning website. The Planning Inspectorate. But in brief, the examining authority will need to test and advise the Secretary of State on whether the land and rights that are sought are required to be to build or facilitate the proposed development or relates to necessary replacement of land. Whether there is a compelling case in the public interest for the land or rights to be acquired compulsorily, and whether that what is sought is legitimate and necessary, reasonable and proportionate.

00:28:53:21 - 00:29:14:12

Um. The panel is also mindful of the advice set out by government in its 2013 publication on the Planning Act 2008. That guidance related to procedures for the compulsory acquisition of land, which is also available on the planning inspector's website.

00:29:18:01 - 00:30:11:24

And the panel's deliberations and decisions will also be guided by human rights legislation, including the European Convention and Human Rights. Article six the right to Fair Trial and Hearing. Article eight Rights to Respect Private and Family Life and Article 14, the protection from any discrimination. And also the first protocol, Article one, which is the protection of property. Both the examining authority and the secretary of state will take a great deal of care to weigh any interference with human rights against the public interests associated with the benefits of development and will ensure that any interference is considered both necessary and proportionate if that is the case.

00:30:18:19 - 00:30:49:29

It is for the applicant to demonstrate that all the proposed compulsory acquisition powers that it seeks are justified within this framework and that all reasonable alternatives to compulsory acquisition have been explored and that there is reasonable prospect of it having the funds available to implement any compulsory acquisition rights that may ultimately be granted by the Secretary of State in the time allowed with any development consent order.

00:30:56:11 - 00:31:00:24

I should stress that the examiner in authority will form a view

00:31:03:21 - 00:31:06:21

over the course of the examination.

00:31:11:10 - 00:31:23:13

And whether or not there is a compiler of whether or not there is a compelling case for the public interest and not just on the submissions in evidence put before the examining authority today.

00:31:25:01 - 00:32:03:00

The purpose of this hearing and any affected persons watching the live streaming or recording that will be available digitally. I'm assuming that the representative representatives of the applicant, the statutory, statutory consultees and the local authorities are reasonably familiar with the legislative policy guidance and framework and will process, and that the Examiner examining authority and Secretary of State will indeed go through.

00:32:09:17 - 00:32:12:00

Okay. So in terms of documents.

00:32:13:15 - 00:33:07:14

Not much more now in terms of what. Need to say so in terms of documents. There are small number of principal documents concerning the application. These might be an area of focus today. That's the development consent order documents CR 3008 the land plans, which is document CR 3003. The Crown and Land Plans, which is documents CR 3004. The explanatory memorandum, which is reference wrap for zero ten, the statement of reasons, which is document 3011 the funding statement which is up document reference app 029 and the book of reference which is document reference CR 3013.

00:33:08:14 - 00:33:17:11

That is the bulk of material relevant to the application for compulsory acquisition powers that I'm highlighting.

00:33:20:01 - 00:33:48:19

And all of that information is available on the examination Library project page of the Planning Inspectors National Infrastructure website. As an aid, do you need to make all parties aware that perhaps they're not always fair? You're aware of all this information. The land plans identify all relevant parcels of land and it includes a label for each that cross references to the book of reference. The book of reference.

00:33:51:09 - 00:34:01:19

That includes a comprehensive table that lists each parcel of land, the powers of sort, and everybody that has been identified with a legal interest in it.

00:34:03:04 - 00:34:31:24

It was the applicant's responsibility to undertake diligent inquiries into the existence of all such affected persons in relation to well in advance, rather of making the development consent order application. The statement of reasons sets out in detail why the application believes there is a compelling case in the public interest for it to be granted compulsory acquisition powers in the draft DCO and that these are necessary, proportionate and justified.

00:34:33:10 - 00:35:11:24

Finally, I need to remind all participants the focus of today's hearing is explicitly on the proposed compulsory acquisition powers and specific parcels of land or legal interests in the parcels of land, and the examining authority will not be taking any submissions or evidence on any other aspects of the proposed development itself, including its merits or wider concerns, or the opportunities to speak or write to the examining authority and abroad. Those broader aspects have already been provided within the examination and indeed there is also scope within the timetable itself to consider anything else.

00:35:13:15 - 00:35:44:21

Similarly, the examining authority cannot take evidence on the quantum of compensation that may be sought or awarded to any individual affected person or the application of the compensation code, as this is strictly outside the scope of the terms. For reference to complete this item about the purpose of hearing the hearing today, may I request the applicant and any interested parties making oral oral representations?

00:35:47:12 - 00:36:18:24

Not able or yes, making oral representations and provides a written copy of what they have submitted by Deadline seven, which is Tuesday the 5th of September. Additionally, any interested parties or affected persons who may be watching the live stream or be listening to the digital recording may make comments on on any of the oral representations made today in writing should they wish to do so.

00:36:18:26 - 00:36:35:18

And that needs to be by the same deadline, which I'll reiterate as the Tuesday the 5th of September 2023. All written submissions should be based on the representations made today. No new material should be added.

00:36:37:06 - 00:36:41:24

To those and it's purely to to aid the examination.

00:36:45:11 - 00:37:15:17

Okay. We've got quite a. Quite a concise agenda today, so I'm not going to Labour any any. Any further points but should highlight if we we may ask questions as we go through various parts. We will also be taking notes of any actions and we may summarise those depending on the the amount listed.

00:37:17:26 - 00:37:19:26

Any action points arising which

00:37:21:20 - 00:37:34:21

may be anticipated. Those are going to be undertaken or invited to be finalised by deadline seven, which is also the 5th of September 2023.

00:37:36:29 - 00:37:41:12

And just a few more aspects to say.

00:37:46:20 - 00:38:18:20

Finally, for the purpose of identification of for the benefit of those who may listen to the digital recording, could I ask that at every point in which you speak, could you please give your name? And if you are representing an organization or individual who it is you represent, and please ensure you speak very loudly or clearly, we're making your submissions. Before I move on now to pass back to my colleague, Mr..

00:38:18:22 - 00:38:25:12

Mr. Butler, is there any questions or queries in relation to what I've just read out at length?

00:38:29:12 - 00:38:30:19

I'll take that as a note.

00:38:32:05 - 00:38:40:12

That completes what I wanted to announce and were now able to turn to Agenda item two. So I'll hand back to Mr. Butler. Thank you.

00:38:41:20 - 00:39:16:04

Yes. Apologies for the length of that. And the fact is that we have to go through it every time if there are new people in the room. So we are aware it's quite lengthy, but it's for the benefit of people that haven't heard it before. Um, thank you, Mr. Shrigley, for that. Um, agenda item two is the applicant to provide an update to its case for compulsory acquisition and temporary possession in the light of the accepted change requests. So the examining authority would invite the applicant to provide an update on its case of compulsory acquisition and temporary possession in the light of the accepted change.

00:39:16:06 - 00:39:55:04

Regrets regarding its overall approach to the the compulsory acquisition and temporary possession. In that context and the relevant tests under the Planning Act. Um, guidance and guidance. The purpose and structure and content of the book reference and the statement of reasons and funding statement and the power sought and the overall case for it being granted. And that includes confirmation. The application still accords with section 123 brackets two of the Planning Act 2008 and whether and how the purpose of the compulsory acquisition powers sought still comply with Section 122 of the Planning Act 2008.

00:39:55:25 - 00:40:03:12

Um, I'll open it up to to the applicant. If you could keep it to sort of ten minutes, I'd be grateful. Please. Thank you.

00:40:05:23 - 00:40:45:09

Parliament for the applicant. As regards the overall approach to compulsory acquisition, this has not fundamentally changed. The overall approach remains as set out in our previous submissions and at the previous hearing and summarised in Rep 4264. In line with the guidance, we have continued to explore all reasonable alternatives to compulsory powers and that has included making amendments to the order where that has helped to facilitate reaching voluntary agreement with landowners. We will note that many of the changes which have been sought have been sought in response to that ongoing engagement with landowners and seeking to reduce impacts on them.

00:40:46:15 - 00:41:22:00

We accordingly consider that the submission of these requests demonstrate that we have been continuing to engage with landowners and we have been acting reasonably to seek to accommodate requests where we could. To briefly run through the changes in Change request one. We sought the relocation of the North Pole, which is work number 45 and the Cornice lane work number 51. These

were relocated in direct response to land on our engagement. That relocation was and by a number of meters.

00:41:22:02 - 00:41:31:22

And we consider that the original overall siting justification for these is still valid. They have essentially been microsites as far as the justification goes.

00:41:33:11 - 00:41:40:11

That change was sought to reduce the landowner impacts and the need for those particular works remains as set out in the original application.

00:41:42:15 - 00:42:09:24

That change request included an extension of the order limits to create a new plot. 1820 A at Newbridge Farm that was thought to allow the pipeline to be routed around a slurry tank which had been constructed after the original routing had been determined. That extension again was sought so that we could speak to the various regulatory bodies about infringing on the woodland protection area. They are to allow the slurry tank to be retained in situ.

00:42:11:27 - 00:42:33:04

We extended salt to extend the order limits to avoid impacting veteran trees in the area near Backward Brook, which is at work number 23, leading to the creation of new plots 1948 1916 A 1916 B 1918 A 1918 B and 1919 A

00:42:35:04 - 00:42:42:13

change request. One further included the extension of the access route at ends work number three to meet the public highway.

00:42:45:15 - 00:42:56:25

That change request also included a number of reductions on the land take up to exclude an area of railway bar at work. Number three to reduce.

00:42:58:12 - 00:43:15:03

The impact on the Shropshire Union Canal to remove a section of public right of way alongside the River Dee and to make it clearer on the plans that two residential properties were not within our red line and we were not seeking compulsory acquisition over them.

00:43:18:03 - 00:43:32:21

Change request two saw the addition of an old timey. Bridge to crossing that did not increase the land take over which we were seeking powers but did change the nature of the acquisition sought from subsurface to include surface.

00:43:34:07 - 00:43:44:23

There was also the addition and removal of a number of small plots at the two Sisters site and Chester Road to allow us to resolve a potential access conflict at that location.

00:43:48:00 - 00:44:20:03

Change request three sought the removal of the shortened lane compound again at Newbridge Farm. We brought that forward in response to the landowners concerns about the quantum of land in that area. And considering that we had to balance, construct, ability and build ability with the landowners concern, we that did mean a change in the construction approach and it did mean we had to undertake some assessment and some engagement and deliverability advice. That construction compound was.

00:44:22:13 - 00:44:51:07

Sorry, removal of that construction compound was then sort and an attempt to reduce the impact on that landowner. We have sought to reduce the land take effect and lane by narrowing the access route of works number 16 and 16 again in response to request from a landowner. There has also been a change on the powers of thought on the insert land to create one plot where temporary possession is sought rather than acquisition of permanent rights.

00:44:54:09 - 00:45:10:22

At each stage. The book of reference has been updated to reflect any changes as it have been submitted, and the statement of reasons has also been updated to reflect the change requests. That statement of reasons, therefore, continues to set out what each parcel of land is required for.

00:45:12:14 - 00:45:28:20

We do not consider that the changes made materially affect the overall assessment of liability to compensation and blight under the funding statement. That funding statement already included a considerable contingency and we consider it remains valid for the application as amended.

00:45:33:07 - 00:45:48:16

Uh, the guidance of paragraph nine provides that the applicant must have set out a clear idea of how each plot would be used. The need and proposed use for each plot is set out in the tables of the updated sorry statement of reasons.

00:45:50:11 - 00:45:52:19

Which includes each of the change requests.

00:45:55:24 - 00:46:14:21

Although powers are sought over a wider corridor that will finally be acquired for the main pipeline works, we continue to consider that as necessary to allow the development to undertake the detailed design in the final routing of the corridor. It is disproportionate to do that detailed design work ahead of consent being granted.

00:46:16:22 - 00:46:45:00

The applicant is also continuing to see powers over land required for mitigation, primarily landscape and mitigation planting. Delg Guidance Paragraph 11 sets out that power should not be sought over more land than is reasonably required, but is also clear that land necessary for works to make the development acceptable may be acquired compulsorily. We therefore continue to submit that these areas are reasonably required and meet the statutory tests and guidance.

00:46:47:25 - 00:47:13:29

The applicant maintains that there is a compelling case in the public interest for the granting of compulsory acquisition powers. The guidance of paragraphs 12 and 13 expand on this as requiring compelling evidence that the public benefits outweigh the private loss. As we have previously submitted, the case for development is set out in the needs case AP 049 and we do not consider that that has been affected by the change requests made.

00:47:16:20 - 00:47:43:23

The applicant continues to submit that the power of sought are necessary to deliver the development, are proportionate and are sufficient to justify the interference with landowners. Human rights. The strong policy support for the proposed development and importantly the contribution it would make towards achieving net zero and decarbonising industry in the north, west and North Wales demonstrate the clear public benefit of the project being granted the powers necessary to ensure its delivery.

00:47:47:09 - 00:47:48:07

Thank you very much.

00:47:49:28 - 00:48:24:14

Would any affected person present either virtually or in the room like to say anything to what they've just heard And no indication in the room. I'm getting no indication online. So, um, in terms of any affected person watching the live streaming or the playback for the recording, I would ask if they have any comments to make in regard to the applicant's response or comments in general on this case. Then they should make those by deadline seven, which is Tuesday the 5th of September 2023. Um, I have no questions specifically with regard to what you've just said.

00:48:24:21 - 00:48:31:07

Um. Like I've got questions that will arise further on as we go through the agenda in any event. So.

00:48:38:24 - 00:48:45:19

And so I'm going to move on to agenda item three then. Unless anybody else has anything they want to say in relation to Agenda item two.

00:48:47:22 - 00:49:22:29

We have no indications either virtually or in the room. So agenda item three is the change request. And in accordance with Regulation 15 two of the infrastructure planning compulsory acquisition regulations, the examining authority invites any affected person or interested party to make an oral representation on the proposed provisions of the compulsory acquisition of additional rights over land set out in the applicant's accepted change requests and any additional affected person to make an oral representation on matters related to the proposed change requests.

00:49:23:09 - 00:49:55:23

Sorry, the proposed compulsory acquisition of land or rights in general. So that's specifically the first one is open to anybody that was affected to buy by the change request to make a comment in relation to those changes. Now, although if you wish to do those at a later stage when you're speaking in event, you can do that instead. Alternatively, any additional affected person is any person that wasn't originally in the book of reference but is now in the book of a reference as a result of the changes.

00:49:55:25 - 00:50:22:06

So that's that's somebody that wasn't originally required to be included but is now included because of a result of the change. So are any of those parties here present either virtually or in the room that would like to speak? In relation to the change requests. Okay. No indications and I've got no indications online either. So I'm going to move on to the next agenda item. Um.

00:50:25:03 - 00:50:31:13

Which is agenda item for individual objections, issues and voluntary agreements.

00:50:33:24 - 00:50:57:03

Originally I was going to start with people who hadn't had an opportunity to make a representation previously, and those were primarily Turley. Turley on behalf of PLN and Network Rail Infrastructure Limited. Unfortunately, neither of those, as far as I'm aware, are present. If they are, can they make themselves known now, please?

00:51:00:08 - 00:51:16:20

Okay. In that case, what I'll do is I'll, um, I'll read my notes and then ask the applicant to respond. And if those parties are listening to either the live streaming or the digital recording, they can respond by deadline seven if they wish to respond. So in terms of

00:51:18:12 - 00:51:42:21

they objected to the current proposal, um, in regard to the permanent acquisition and the quantum of land to be included in this included, which was a 24.4m corridor. Um, the proposed acquisition they considered was severely restrict future proposed development of land appeal, not just for the duration of the construction of the pipeline, but through the lifetime of its operations.

00:51:44:12 - 00:52:19:05

The examining authority also understood that discussions with a view to reaching an agreed position by both parties was ongoing, but to date has not been resolved. Although I think you are close to reaching an agreement with them, we've not been advised of anything. So what I would like to do is I would like to ask the applicant if they would have anything they would like to add concerning the regarding the concerns that have been raised by PLN or to date or even update as to where you've reached with discussions.

00:52:30:19 - 00:52:56:12

While the applicant discussions have been going on going with appeal. And we do consider that we have managed to resolve all of the in-principle issues. They are waiting on some documentation from us to confirm the changes that we have agreed we will make with them before they can tell us that they are happy. We are actively working on that, hoping to make some progress next week, get those documents to them and we will update you as soon as we have.

00:52:56:20 - 00:53:38:00

Okay. The sooner you can update us, the better as far as I'm concerned. But we will need confirmation from both parties yourselves and that they are satisfied with the content of the agreement and that plenary withdraw their concerns. Um, so, so I'd ask you to bear that in mind when you get to that. In that case, I'm going to move on to Network Rail. Again, they're not present, but their comments regarding plots. 123 921 924 925 1424, 14, 29, 17, 12, 1904 and 1904.

00:53:38:02 - 00:54:11:18

See um, they stated they objected to the articles within the development consent order related to the discharge of water, which was Article 19 authority to survey and investigate the land, which is Article 21 protective works to buildings, which is Article 22 compulsory acquisition of land, which was Article 24, compulsory acquisition of rights and Restrictive Covenants, which was Article 26 statutory authority to override easements and other rights, which was Article 27 compulsory acquisition of land which relates to minerals.

00:54:11:20 - 00:54:57:16

Article 28, private rights, Article 29, acquisition of subsoil and airspace, which was Article 31 rights to rights under or over streets, was Article 33. Temporary use of land for the carrying out of the authorised development. Article 30 for temporary use of the land for the maintaining of the authorized developed, which was Article 35 and Article 39 related to the felling or lopping of trees and removal of hedgerows within the draft eco they all primarily related to their concerns related to compulsory acquisition of rights over land or the temporary use of land that formed part of network Rail's operational railway, and which network rail relied advised they rely upon for the carrying out of the statutory undertaking.

00:54:58:03 - 00:55:11:13

Um, as they're not here, I'd like to ask the applicant for an update as to where they've reached with regard to their position with network rail infrastructure limited please.

00:55:13:25 - 00:55:35:23

For the applicant. Uh, the current proposal with network rail is to put in place protective provisions in their favour which would help alleviate their concerns. The protected provisions are largely agreed, as we advised yesterday. There are a few minor points. However, those protected provisions would bind

the applicant to enter into other agreements. Some of those are of considerable length and we're just working through them.

00:55:35:29 - 00:56:18:07

That's fine. Again, the same point needs to be made, though, that with regard to reaching those agreements, we don't need to see sight of the agreements, but we need to know that the parties are happy with what the content of those agreements are. That's both yourselves and Network Rail. And ultimately we need network rail to to remove their objection or concerns if they are satisfied to do so. Again, should Network Rail be watching the live streaming or the playback of the digital record and would like to make any comment in response to what they've just heard or indeed even if they would like to appeal, if they'd like to make the same comments, they can make comments and observations and what they've just heard in relation to the applicant's concerns on ongoing discussions and negotiations.

00:56:18:09 - 00:56:25:24

And they should put those in writing by Deadline seven, which is the 5th of September 2023. Um.

00:56:28:09 - 00:56:38:19

Are there any other IP's or affected persons, so interested persons, affected persons or additional affected persons who have not previously spoken at the last compulsory acquisition who wish to speak now?

00:56:42:01 - 00:57:02:26

No indications and no indications online either. So I'm going to move on to other affected persons or interested parties who have already set out their position in compulsory acquisition hearing one related to compulsory acquisition in temporary temporary position to provide an update on their current position. Can I start with Chester West and Chester Council, please?

00:57:03:28 - 00:57:24:03

Michelle Spark on behalf of Cheshire West and Chester Council. So I understand that there has been ongoing engagement between the applicant and ourselves and that we are currently awaiting revised heads of terms and understand they're expected to be released by the applicant imminently. And that's the extent of our update at the moment, sir.

00:57:24:26 - 00:57:25:28

Thank you very much.

00:57:27:16 - 00:57:28:26

Again, it's just a.

00:57:30:18 - 00:57:50:03

A point with relation to timescales. There is now less than six weeks left in the examination. Anything that needs to be considered as part of the examination needs to be submitted prior to its close. So I would ask you to to expedite any outstanding issues as soon as you possibly can, please.

00:57:51:21 - 00:58:14:04

Flintshire County Council. Oh, sorry, the applicant. Would the applicant like to say anything in response to Chester, Cheshire West and Chester Council? No, no, I'm getting shaking heads, so thank you. Flintshire County Council. Would you like to say anything or are you going to just say the same as as Chester West and Chester Council? Because I know you're working together on these things, so.

00:58:15:03 - 00:58:23:27

Susan Corder Flintshire County Council. Yes. Our position is similar to Cheshire West in receipt of heads of terms, and we understand that more to follow.

00:58:24:02 - 00:59:06:06

Right, Perfect. Okay. Thank you very much. Um, again, the applicant. I'm assuming you don't want to respond unless you say something, so. Okay. Thank you. Um, in that case, I'm going to ask insert limited to to comment. So I'd open the table to you if you'd like to respond to. I understand your plots are 101101A1-021031-061-06A through to D inclusive one dash 21 dash 21 one dash 22 180118021803 and 1804.

00:59:06:08 - 00:59:08:20

If I've missed any, I'm sure you'll let me know.

00:59:10:10 - 00:59:43:14

And so I don't believe that that's correct. And we have put in a sort of summary of our position in the last deadline, which is six zero 22, which sets out the latest position. We're currently in negotiation with the applicant regarding some protective provisions for the benefit of Insert and also in relation to a couple of heads of terms for land rights agreements. And those are currently being negotiated between the parties. And just in summary, the main sort of areas of concern

00:59:45:06 - 01:00:22:21

still remain the future development of the land and how that can be brought forward, especially in relation to the restrictive covenants over the pipeline and ensuring that does not prevent insects from developing their land in the way planned and the crossing of the railway and how that will be undertaken, whether it's in one single crossing and feeding into that is the plot. One two, one, which was noted The last hearing is a large area and what rights are necessary of those, what route, whether it is in fact required at all for monitoring purposes.

01:00:22:23 - 01:00:51:18

If it is done in a trench and one fences crossing and also concerns about traffic movements. The site is very busy. There's lots of traffic movements allowing the undertaking to carry on and just how that will work with the construction traffic for the proposed project. So that's something we're looking at in the protected provisions and handover to Mr. Gartland if he wants to add anything further, any further detail.

01:00:52:02 - 01:01:26:03

Thank you. Thank you, sir. If I can just be a bit bit specific about 1 or 2 things just to help if if can, it's extremely important to insert in respect of their aspirations to enhance their rail infrastructure that the ability to add additional. Rail sidings and an intermodal area to the south of their existing facility is not impeded in any way by the pipeline project.

01:01:27:10 - 01:02:04:04

Um, and we specifically asked for clarification as to whether the directional drilling beneath all of the rail lines in that area could be secured. That's still outstanding. In terms of whether or not that is technically possible or whether the applicant is willing to do it. And as Ms.. Woods has suggested, a lot falls on that decision because the need for plot 1 to 1 in any form and 106 leading to it for either construction or even monitoring purposes is dependent on that.

01:02:05:09 - 01:02:37:16

We also have requested details of any agreements related to the depth of drilling beneath the main rail line with network rail that may have been reached that's yet to be received to our client is working on, I suppose, a hypothesis that any depth good enough for network Rail would be good enough for them in terms of potential disturbance. So it would be useful to see that as say that's outstanding.

01:02:37:18 - 01:02:56:06

And then once those matters have been determined and we have confidence that no works undertaken. In respect to the DCO will prevent the installation of rail sidings from plot 1 to 2

01:02:57:24 - 01:03:01:27

and one. Sorry. 120.

01:03:03:14 - 01:03:07:12

Into the encircle rail land, as we call it.

01:03:09:15 - 01:03:15:18

Then the agreements that Ms. would relate to, to talked about can be can be progressed.

01:03:18:15 - 01:03:30:13

Dependent on the outcome of those discussions. The change request moving a permanent right of access to a temporary right of access at 160.

01:03:32:15 - 01:03:37:20

Would fall away because there would be no requirement to have a through route. Um.

01:03:40:05 - 01:03:44:04

Which, as we expressed at the last hearing session we attended,

01:03:46:00 - 01:04:17:04

severs at the moment the planned warehouse development in that location. And then and then and then finally and you will have seen on the site visit on Monday, I hope what I would refer to is the haul route between the rail terminal and the plant, which all of the raw material, the sand and the bullet for the plant is moved to and fro. And in our submission of this week, we actually set out what the timing and nature of those movements are.

01:04:17:23 - 01:04:32:01

It is vitally important to ensure that those movements are not interrupted and there's a continuation of their operation. It should not be prejudiced in any way by the rights of access sought by the applicant.

01:04:33:10 - 01:04:34:29

I understand that the

01:04:36:14 - 01:05:07:04

just for everybody to be aware the examining authority did an accompanied site inspection on Monday afternoon and all day Tuesday with us visiting these particular plots on Tuesday afternoon. It was very helpful to actually get on the ground as opposed to just from the adjacent public highway, which, you know, it's you can't actually get to to these plots from the public highway. It's not physically possible. So so it was exceedingly helpful.

01:05:07:06 - 01:05:54:25

And we did have extensive tours through the the whole route that you mentioned and on to to the railhead land as well for the intermodal area. And it was very informative. So thank insert for putting their staff availability to, to show us around and to point out the things that you've already identified without introducing any new evidence on on those events. Um, can I ask the applicant how there seems to be quite a significant number of outstanding matters, including the potential depth which I think you're probably going to say is not able to be defined at this point because of the the way the application has been submitted.

01:05:54:27 - 01:06:10:15

And, you know, the the. The actual detail not being available at this point, but how close are you to resolving these issues with within? Are you still at massive differences or are you still

01:06:12:16 - 01:06:19:26

or are you likely to be able to complete to the satisfactory of both parties before the end of the examination?

01:07:02:12 - 01:07:17:08

But for the applicant. We do think that we have. We have made proposals on all of these points and protected provisions that have been sent. We would like, sir, to come back in a couple of the technical points that came up in that discussion, if that's okay. I'll ask Mr. Glass to assist you.

01:07:17:15 - 01:07:19:25

That's absolutely fine. So.

01:07:22:05 - 01:07:52:26

That's James Glass on behalf of the applicant. Think to to answer some of the technical points. It's probably best to start with the context of Network Rail's formal transport crossing procedure as a statutory undertaker and has been mentioned earlier. And they have a very prescriptive and lengthy due diligence process for any party planning on undertaking treacherous crossings or any sort of utility crossing of their assets.

01:07:52:28 - 01:08:23:12

And as a rule taker, they have quite a lot of say and power by. By the time we signed up to their terms, they essentially get the final technical sign off on what is built and how it is built. And to that end, until we've got to the end of the process with Network Rail, we can't confirm the depth and on inserts preference for a single drive or a single trench crossing.

01:08:23:20 - 01:08:58:27

We also can't confirm that because there is a reasonable chance that Network Rail will want to reduce the chance of a trench loss failure, the tunnel failure by reducing the length of that crossing. So by adding a few hundred meters to do all of that crossing in one go network Rail might argue that endangers their asset and therefore would not allow us to build it. So it's that process from this having done it before, typically 9 to 12 months from the start of detailed design, before we get that level of approval from from Network Rail.

01:08:58:29 - 01:09:31:25

So and we can't confirm the depth and we can't confirm that we can do it in a single drive, albeit that I think it's probably fair to say it's probably our preference to do it as a single drive as well. That said, there is no existing, you know, insert of proposed that they've got plans to expand the rail head. We've not seen those. So, you know, we've not had confirmation of how many new rail sidings are to be built when they're to be built, how the to be built.

01:09:31:27 - 01:09:38:06

And we've been given no contact details for a technical sort of third party on which you can have that. That level of discussion with

01:09:40:06 - 01:10:09:12

terminus crossings are primarily for existing assets for things that we cannot disturb, as you saw on the accompany site, as it said, that the land at the moment is overgrown and scrubby. There is no railway there. And so to I suppose to insist on a trench crossing of that part until there is a railway

there or proposal, it's difficult to argue why that would be required from a Yeah, that's point of view. And as for access,

01:10:11:00 - 01:10:47:22

if we do get permission to do that crossing as a single trench crossing, which is perfectly possible, we would still need access to network rails, railway siding and what is the existing insert railway siding, sorry, network rails railway and the the insert siding for things like monitoring and settlement monitoring during the treacherous crossing. So actually we would still need some access to that, that intermediate patch of land or we may need it to allow us to complete our trenches crossing and meet the monitoring requirements of the railway crossing standards.

01:10:48:05 - 01:10:48:28

So.

01:10:50:19 - 01:10:51:06

It's all.

01:10:51:08 - 01:10:52:01

Possible.

01:10:52:03 - 01:11:18:10

But the party that has the largest say in what we can do as an applicant arguably is network rail and it will be a long time before that. That is agreed and without dates or proposals from and circus to what is to be built and when it's to be built. It's very difficult for us to get any sort of further technical assurance then we think it's possible. And so I think that's that's probably sorry.

01:11:18:17 - 01:12:05:20

David Walker speaking on behalf of the applicant. Just to build on Mister Glass's comments more specifically regarding around the project provision comments and actually where we're seeking to in the voluntary agreement, we are looking at alternatives that will impact the scheme but will actually satisfy the concerns that that insert raised around 160 and their proposed development and subject to, as Mr. Glass alluded to and the site inspection company satisfaction that we went to on on Monday this week regarding plot 1 to 1 and its terrain to make sure that we have a suitable means of access to carry out required operational checks on the on the part of 1 to 2 when the when the pipeline's in operation.

01:12:05:22 - 01:12:17:06

So as long as we have those, that's where we are in discussion currently within both on the protective provisions and the voluntary agreements to satisfy a suitable position for both parties.

01:12:19:00 - 01:13:00:20

So I'm going to come back to Mr. Gartland and ask you that based on what you just heard with regard to the trenches cost and the difficulties with the depth, but the fact being that there's network rail will have ultimately if if the agreements are signed with Network Rail, ultimately they have the power to sign off the depth of the pipeline. Um, firstly, does would that satisfy you or is it something you still need to be? Absolutely certain of, that it still meets your requirements because you basically said you were working off the basis that if Network Rail was satisfied, you were satisfied or your client would be satisfied.

01:13:01:11 - 01:13:21:16

And then the second question I've got is related to the the intermodal area in the railhead. Previously you've mentioned that that it was part of a an agreement to to use the railhead under Section one and six with the the local authority. And

01:13:23:11 - 01:13:44:21

you have to increase its use etcetera that sort of stuff. But um. How far have you got with discussions with the local authority as to the actual consenting of that that railhead? Is it has it got consent? Are you still in negotiations with the local authority? Has there been a formal planning application, that sort of stuff? That's what I'm really asking. Yeah.

01:13:45:07 - 01:14:07:22

Okay. Thank you, sir, for that. It that was a useful, um, contribution from the applicant there. I think it's the first time I've heard some of that, particularly in relation to the network rail point. The issue around our working hypothesis on the agreement with network rail is principally around the depth of the of, of the directional drilling.

01:14:10:21 - 01:14:28:09

If if Network Rail are satisfied, it doesn't automatically mean we're satisfied because it might mean the network rail, according to Mr. Glass, may well object to the length of the directional drilling, which includes under sailing the existing NC rail link

01:14:30:12 - 01:14:43:07

in terms of how directional drilling works and the justification for it and relating it to the planned expansion of the the intermodal terminal area.

01:14:44:27 - 01:14:58:00

I think it was. It was explained that. The justification for directional drilling is in relation to protection of existing assets. Well, the insert rail link is an existing asset.

01:14:59:10 - 01:15:01:13

Um. And.

01:15:04:03 - 01:15:12:21

Our our case is that it's justified to undersell both the network rail asset and the existing.

01:15:14:26 - 01:15:15:23

And Cirque.

01:15:16:14 - 01:15:17:18

Royal connection.

01:15:23:12 - 01:15:54:04

Last time we were at the last hearing sessions, I think you indicated that you would familiarize yourself with the legal agreements that and Cirque entered into with the council, and that does require 12% of goods moved to be moved by by rail. It's a commitment that it's taken very seriously by, by reopening the old power station rail connection to ensure that raw materials are brought in

01:15:56:13 - 01:16:10:20

in order to support the business going forward is absolutely critical that the rail usage is increased because the actual success of the business in terms of its output relies on it.

01:16:12:07 - 01:16:33:09

And. A lot of work has gone in in terms of understanding the extent to which finished product can be exported by rail, because we've essentially reached the point of maximising the import of raw materials by rail, which forms an important part of that equation.

01:16:35:29 - 01:16:38:12

Those proposals are the subject of.

01:16:40:27 - 01:17:15:15

Expert. Um, logistics, rail logistics assessment and have been the subject of what I call pre pre pre-application discussions with with Chester at West Council, Cheshire West and Chester Council. Um, but they're not the subject of a live planning application. But they are embedded within the commitments of the business as bound by the Section 106 agreement on their on their main planning permission for the overall development.

01:17:17:07 - 01:17:22:02

And as I said at the start, they are critical for the business going forward in order to.

01:17:23:26 - 01:17:26:25

Consolidate its position as a market leading.

01:17:28:26 - 01:17:32:17

Glass bottle manufacturing and facility filling business.

01:17:35:19 - 01:17:38:29

So I think that's that's where we are.

01:17:40:20 - 01:17:41:25

With that item.

01:17:43:07 - 01:17:43:22

Um.

01:17:47:06 - 01:17:52:06

So I don't. I don't really accept that that.

01:17:53:26 - 01:18:04:12

Okay. If network Rail insist on their asset being protected somehow, n6 asset is of secondary importance.

01:18:06:28 - 01:18:09:09

I think they're both should be treated with the same weight.

01:18:35:12 - 01:18:37:09

Yeah. Thank you for that. Um.

01:18:40:10 - 01:18:51:18

If my memory serves me rightly, this Section 106 agreement was attached to Chester West and Chester Council's section Local Impact report. It was an appendices to it. Do you recall?

01:18:54:21 - 01:19:00:01

You don't have to answer that now. And I can go away and look it up myself, so don't worry if you don't know.

01:19:04:03 - 01:19:09:26

It's stylish as to wear. Store all yourself. Mr. Gartland, it's entirely up to you.

01:19:11:15 - 01:19:16:04

Shell Spark, Cheshire West and Chester Council. So I can check that through today and come back to.

01:19:17:05 - 01:19:28:13

There's no need because I can look it up and if it's not there, I'm fairly sure it's there. But if it's not there, I can put a request in at the the, the written questions around on 15th of August. So. So don't worry. I'll check it.

01:19:31:06 - 01:19:32:03

It is helpful to.

01:19:32:05 - 01:19:36:09

Hear your response with the applicant. Like to respond any further, please.

01:19:38:25 - 01:20:00:22

So, yeah. James Glass on behalf of the applicant and just a point of clarification. There's no proposal to to open cut and six existing railhead. We don't intend to stop its use and interfere with that. So we would propose to transversely across the existing spur

01:20:02:12 - 01:20:22:06

using the same network rail standards, albeit that network rail wouldn't be a party to that, you know, use it as an industry standard to do that, crossing that. The the point about undertaking the rail crossings as a single trench less installation as is a very specific scenario in that.

01:20:23:25 - 01:20:40:16

We would be forced to transfer across one and then transfer across the other as opposed to do them both in one go. And the reason that the objection that's responding to is the amount of land that's included in parcel one, dash two, one. So

01:20:43:14 - 01:21:07:24

it's not about disturbing what's already there. It's about whether or not we can justify increasing risk for an asset that isn't there. And so, you know, the argument that we are taking up too much land in 121 because of a future railhead, that's that's the the point about whether or not we cross one trench to sleep in one trench crossing or if we split that trench just crossing into two parts. Hopefully that's clear.

01:21:08:21 - 01:21:55:15

Yeah, I understand that point. But I think think the point that Inter are making is that their their future business plans are obligated by the Section 106 agreement where they've got a commitment to to use and increase the use of the railhead effectively and meeting their obligations with regard to what that Section 106 agreement secures. So there's an interesting in my view, there's an interesting position there in that although there is no existing planning permission for the expansion at this time, they are in discussions with Cheshire, Cheshire West and Chester Council and that it's to meet an obligation that they've signed up to or in part at least signed up to as as part of an existing planning permission.

01:21:56:03 - 01:21:59:12

So it is an interesting sort of.

01:22:01:06 - 01:22:23:05

Contrary or juxtaposition with the two issues. So I don't think you're going to be able to clarify for me any further here with regard to to where the parties have reached, other than you can't tell in Turkey at this point in time how deep the trench discussion is going to get and whether or not it's going to be in one or 2 or 3 or whatever. Um.

01:22:24:22 - 01:22:33:06

Places effectively. Um, because you're not in a position with Network Rail yet to be able to advise on any of those things. That's, that's correct, isn't it?

01:22:34:12 - 01:23:06:17

Sir James Glass on behalf of that, James Latimer, half the applicant and. Yes. Although there's nothing that stops us installing a pipeline at depth. Without it being a trench crossing. We're not objecting to the principle of installing a new rail spur over a pipeline that is already installed. This is a, as I say, it, a temporary works issue and access so we can maintain the depth of crossing if we install it without trench loss in that that middle section between the two existing rail lines.

01:23:06:19 - 01:23:35:03

We've got no objection to that. It's it's about the temporary works. And so trench crossings are normally driven by the or the depth is driven by the predicted settlement as a result of drilling underneath an existing asset. If there's no existing asset, it's not the settlement that's the problem is what? It's a different issue. So in principle, we've got no objections to a new rail line being installed over a pipeline that's already there. And it's.

01:23:36:10 - 01:23:49:03

Yeah, it's obviously sort of in its interest to protect their future business plans. So just a question again for Mr. Gartland or your colleague.

01:23:51:09 - 01:24:20:14

How would you be satisfied with the protective provisions in in. It's a difficult question to ask. Actually, in terms of protecting relations, you're in negotiations with the applicant. How likely do you think it is that you'll be able to reach agreement by the end of the examination? And what possibility would there be for you to remove your concerns before the end of the examination? Or do you think that's completely unfeasible.

01:24:21:26 - 01:25:00:10

At the moment, sir? I don't think it's unfeasible, but I think there's some discussion to be had. Um, as you'll appreciate, some of the points that we're discussing now are anew to me. So we just need to sort of unpack those a bit and understand what that actually means. We have provided protective provision drafts now and they're the subject of comments backwards and forwards. It's fair to say that some of the clauses in the provisions we've put in our caveated by the applicant reference to any land agreement that's reached.

01:25:00:12 - 01:25:33:25

So the two essentially sit side by side. So certain of our provisions would be acceptable, subject to the land agreement being in place to to meet the concerns. So the two the two are being discussed side by side. So I think a lot of intense negotiations are going to have to be had over the next three weeks, frankly, in order to get there. But going going back to your suggestion at the last hearing session is that. Irrespective of all of that, we will submit a set of protective provisions that we feel are acceptable and reasonable.

01:25:34:22 - 01:26:07:12

I'm just about to ask you whether or not you'd considered that, but I'm glad you are considering it. Obviously, if you can't reach agreement on protective provisions, then I would recommend that you submit a version of protective provisions you consider acceptable that I'd prefer to see them at deadline seven, if at all possible, so that the applicant has an ability to respond to them. Um, but I'll leave it in your capable hands to decide how you're going to make your comments. Just so you're aware, I have read your deadline's comments.

01:26:07:14 - 01:26:14:29

So, so am aware of what they are. Although the deadline is only the eighth. So. So read them last night, to be frank.

01:26:15:01 - 01:27:03:29

So I think you're going to come in about the local impact report. Oh, sorry. Sorry. Well, I've got the conch, as it were. So if, um, just. Just to confirm that the council have just passed us a note to say that the legal room wasn't part of their local impact report. Um, but on on the topic of the Section 106 agreement, when you, when you, when you do revisit it, the intermodal terminal, phase one at appendix three of the freight management plan that's attached to that legal agreement actually shows the the rail terminal component in the location that we now propose it to be with additional sidings coming off the land at block 120.

01:27:05:15 - 01:27:06:03

Okay.

01:27:06:18 - 01:27:10:17

Can I. In that case, can I ask? Um.

01:27:12:10 - 01:27:36:25

Cheshire West and Chester Council. Can you submit if you haven't already done so, a copy of the legal agreement, bearing in mind it is a public document that is attached to a planning permission? I'm not asking you to enter into evidence. Do you think that that shouldn't be made public? But as it is a public document, it would be very helpful to have a copy of that and mark that down as an action point, if you don't mind.

01:27:37:04 - 01:27:41:13

Michelle Cheshire West and Chester Council. Of course, we'll submit that as soon as possible.

01:28:00:13 - 01:28:03:23

Right with the applicant like to come back on anything they've just heard.

01:28:05:18 - 01:28:06:08

Okay.

01:28:08:18 - 01:28:12:05

There's any other part you wish to speak or anything they've just heard?

01:28:13:24 - 01:28:15:20

Online or in the room, that is.

01:28:17:18 - 01:28:27:14

Right. Okay. In that case, I'm proposing that we pause this meeting and make an adjournment. Bearing in mind it's two minutes to 11. Um.

01:28:30:27 - 01:28:51:13

We'll come back and continue on this item. National highways are next, but again, they're not available. So it'll be a question direct to the applicant. But in the interim, I'm going to adjourn this meeting for a 15 minute break. And if we can be back at 11:15, I would be very grateful. This meeting is adjourned.