

**Planning Act 2008 (as amended): TR010011: Application by
Central Bedfordshire Council for an Order Granting Development
Consent for Woodside Link Houghton Regis Bedfordshire**

**GUIDANCE NOTES REGARDING THE COMPULSORY ACQUISITION
HEARING AGENDA**

Compulsory Acquisition Hearing Wednesday 22 January 2014

Venue: Central Bedfordshire Council, Watling House High Street North
Dunstable Bedfordshire LU6 1LF

Registration: 09:30am

Hearing start time: 10:00am

Background

As at least one Affected Person (AP) has notified the Planning Inspectorate that it wishes to be heard at a Compulsory Acquisition Hearing, this means therefore that the ExA must hold such a hearing. The Compulsory Acquisition Hearings are being held:

- to ensure adequate examination of the provisions set out within the DCO seeking to authorise the compulsory acquisition of land and
- to assess whether the conditions relating to the land being required for the development or required to facilitate or be incidental to that development are met and
- whether there is a compelling case in the public interest for the land to be acquired compulsorily.

All Interested Parties are welcome to attend the hearing. However Affected Persons (APs) whose land interest(s) are affected under compulsory acquisition proposals are specifically invited to attend. The APs and other Interested Parties who have notified the Planning Inspectorate that they wish to be heard are set out below.

Those who have requested to be heard at a Compulsory Acquisition hearing, in no particular order are:

Dougal Ainsley (Solicitor), Rahul Bijlani (Senior Associate) and Angus Walker (Partner) from Bircham Dyson Bell (BDB) representing the applicant Central Bedfordshire Council (CBC)
Paul Cook – Head of Transport Strategy from CBC
Simon Ricketts from King & Wood Mallesons SJ Berwin, representing Friends Life Company and Lands Improvement Holdings Limited
Aimie Harwood/ Abigail Walters from Berwin Leighton Paisner LLP representing National Grid Electricity Transmission and National Grid Gas

Procedure to be followed

The hearing will run until all Affected Persons and other Interested Parties have made their representations and have responded to the ExA's exploration of the matters in accordance with the agenda set. If the ExA

deems it appropriate he may call a mid-morning break (and if necessary a mid-afternoon break should the hearing extend into the afternoon). In any event a lunch break will be called at around 13:00 depending on progress.

Each Interested Party who has indicated a wish to speak will be invited to come forward to give their evidence and to respond to questions from the ExA. The ExA will lead the hearing session which will be arranged to permit presentation and testing of evidence through a question and answer format. The Applicant will also be given an opportunity to present its evidence in response to each party's case and to respond to questions from the ExA.

Oral submissions should be based on representations previously made in writing by the particular participant⁴ or arising directly from the matters raised by each Interested Party. However, representations made at the hearing should not simply repeat matters previously covered in a written submission; but rather provide further detail, explanation and evidential corroboration to help inform the ExA.

The hearing will deal with

- matters relating to the Applicant's case for the grant of compulsory acquisition powers (Items 1 to 8 on the Agenda)
- any representations made by Affected Persons (APs) and other Interested Parties (Item 9 of the Agenda)
- any matters relating to sections 127 and 138 and also section 131 and 132 (in so far as the ExA is required to address these latter provisions)
- any other relevant matters relevant to compulsory acquisition that the ExA wishes to consider.

Affected Persons seeking to speak

The APs identified by the ExA whose representatives may seek to speak at the hearing are:

National Grid Electricity and National Grid Gas PLC
Friends Life Company Limited and Lands Improvement Holdings

All APs and other Interested Parties who have submitted a representation regarding compulsory acquisition should attend the hearing if they wish to do so. Any contribution made to the compulsory acquisition hearing will not preclude contributions to other hearings, including the Issue-Specific Hearing to be held on Tuesday 21st January 2014 and the Open Floor Hearing to be held on Thursday 23rd January 2014. Both these hearing are to be held at the same venue as the Compulsory Acquisition hearing.

Only those Interested Parties who have specifically requested a compulsory acquisition hearing (APs) are listed in this hearing agenda but this does not prevent any Interested Party who has made a representation regarding compulsory acquisition powers attending and being heard at the appropriate compulsory acquisition hearing. At the hearing the ExA will by reference to the Agenda ask those who wish to speak to give their names so that they can be called to speak.

Further information

Any person uncertain of the procedure or seeking further information should contact Mr Emré Williams (Case Manager) or the Woodside case team at the Planning Inspectorate on the contact details provided below.

Email: woodside@infrastructure.gsi.gov.uk

Case Team: 0303 444 5000

Case Manager: 0303 444 5069

Yours faithfully

Glyn Roberts

Glyn Roberts

Examining Authority

COMPULSORY ACQUISITION HEARING AGENDA

1. INTRODUCTORY REMARKS

2. PURPOSE OF THE HEARING

3. IDENTIFICATION AND INTRODUCTION OF THE PARTICIPATING PARTIES

4. THE STATUTORY CONDITIONS

The right to exercise compulsory acquisition powers can only be granted if the Secretary of State is satisfied that the conditions set out in s122 and s123 of the Planning Act 2008 (as amended) (PA 2008) are met.

4.1. Which parts of section 122(2) and s123 are engaged

Agreement will be sought that s122(2)(a) and (b) are engaged in this case.

Agreement will be sought that s123(2) is engaged because the application for the Development Consent Order (DCO) included a request for compulsory acquisition of the land sought to be authorised and in this case the proposals have been subject to pre-application consultation and other pre-application and application procedures under PA 2008.

4.2 How and where have the conditions been met

The Applicant will be invited to briefly set out in summary form how the conditions have been met and where this is evidenced in the application documents (by document and section reference) and specifically supplemented in examination submissions (by document and section reference).

Participating interested parties will then be invited to respond.

4.3 What is the public interest in the land proposed being acquired compulsorily

The Applicant will be invited to briefly set out in summary form, including reference to relevant application documents, whether there is a need in the public interest for the land to be acquired compulsorily.

This summary should include:

- The position in relation to the Draft National Policy Statement;
- Is the land/interests in land proposed to be acquired compulsorily required for the scheme to be implemented, and if so why.

Participating interested parties will then be invited to respond.

4.4 Required documentation

With regards to the relevant application documents (as set out in Regulation 5 of the Infrastructure Planning (Applications, Prescribed Forms and Procedure) Regulations 2009 (the APFP Regulations)) which have been provided, clarification will be sought from the Applicant as to whether any updated versions of the following documents should be provided and/or referred to or whether the most recent submissions are complete and up-to-date.

The Draft DCO

Clarification will be sought from the Applicant and other relevant parties as to:

- which articles in the draft DCO engage compulsory acquisition powers
- whether the DCO includes any compensation provisions or modifies the application of a compensation provision beyond that necessary to enable appropriate compensation to be applied
- how protective provisions will be fully incorporated and whether these are in an adequate form
- clarification of the role and progress of any side agreement between the Applicant and NGET/NGG and whether the outstanding objection to the Order's compulsory acquisition provisions lodged by NGET/NGG has been or can now be withdrawn

The Book of Reference

Confirmation will be sought that all the plots referred to in the Book of Reference are included with the application, that the provisions are clear and comprehensible and whether there are any matters that any Party submits need clarification. Where substituted documents have been submitted reference should be made to them and they should be clearly identified.

The Statement of Reasons

The ExA will seek views upon whether the Statement of Reasons sets out comprehensively the Applicant's case for the grant of compulsory acquisition powers with reasons and justification and whether there are any matters that any Party submits need clarification.

The Funding Statement

In considering the issue of financial security for compulsory acquisition compensation regard needs to be had to the provisions of the PA 2008, APFP Regulations together with Guidance issued under the Act.

The ExA will wish to hear submissions that deal with ensuring that the Funding Statement and any supplementary information required is considered in the context of full evidence that reflects Guidance and the

Human Rights Act considerations. Such evidence should demonstrate whether or not adequate funds will be available to meet full project costs and compulsory acquisition and other compensation if compulsory acquisition powers are granted and exercised and the project consented and implemented up to the maximum consent period.

Matters to be covered include: timing and availability of funding; and underwriting and security for funding including where any or all of the benefit of the order is proposed to be transferred to another person(s).

The Land Plan

Confirmation will be sought from the Applicant and any other party present that wishes to comment that all land and interests to be compulsorily acquired are clearly identified and differentiated and that there are no outstanding discrepancies between the description of the land in the Book of Reference and the plan and confirmation as to the precise areas of land which are proposed to be compulsorily acquired. Where substituted documents have been provided reference should be made to them and they should be clearly identified

5. HUMAN RIGHTS AND EQUALITIES DUTIES

The Applicant will be invited to set out in summary form where Human Rights and Equality Act duties are addressed specifically in the application and examination documentation and set out the position with regard to any interference with Articles 6 and 8, Article 1 of the First Protocol, and relevant equality duties.

6. ALTERNATIVES

The Applicant will be invited to set out in summary form what alternatives were considered, the reasons for the selection of the highway project proposal and alignment chosen, and where this is set out in the application and examination documentation.

Submissions will be invited from any AP on any alternatives not already identified or additional submissions in relation to those already identified. This may include any lesser steps that could meet the identified need.

7. LAND/INTERESTS – IS THE PROPOSED INTERFERENCE LEGITIMATE, NECESSARY AND PROPORTIONATE

The Applicant will be invited to set out:

- why it considers the proposed interference with land, rights and interests is justified by reference to relevant application documents.
- any lesser steps that could meet the identified need. (If not already dealt with under Alternatives at item 6 of the Agenda)

8. MITIGATION PROVISIONS (mitigation of noise and disturbance)

The Applicant will be invited to identify these proposals in the application documents and to justify its proposed approach in relation to the

implementation, burden of proof and adequacy of these proposals and the related DCO provisions.

9. REPRESENTATIONS BY AFFECTED PERSONS AND OTHER INTERESTED PARTIES REGARDING COMPULSORY ACQUISITION MATTERS NOT COVERED UNDER PREVIOUS AGENDA ITEMS

All Parties are asked not to merely repeat what has already been set out in the representation they have submitted but to provide relevant detail and supporting evidence where practicable. They should also provide copies of any speaking notes to be used during the hearing session.

- Opening Remarks by the Examining Authority (ExA).
- Affected Persons¹ who wish to make oral representation.
- Category 3 persons² wishing to make oral representations, if any.
- Any other persons not previously listed as interested parties who wish to make oral representations, if any (see s102 of the Planning Act 2008).
- Any relevant matters arising from Applicant's responses to the ExA's First and Second Round Written Questions relating to the Statutory Tests to be met under Sections 122 and 123 of the Planning Act 2008.
- Any Other Matters

Throughout the ExA will expect to hear evidence that references existing written submissions if these are to be relied upon. He will also expect a reasonable standard of evidence to be presented (rather than unsupported assertion) in relation to the matters discussed.

ExA to raise any issues arising from submissions made by the Applicant and others.

10. Applications for Consent under Section 138 of the Planning Act 2008

- Applicant to provide an update to confirm any matters arising under s138 of the Planning Act 2008
- Relevant Statutory Undertaker or Telecommunications Code Operator to add to its representations (if any present)
- ExA to raise any issues arising from submissions made by the Applicant and others.

11. Sections 131 and 132-Open Space Land in relation to NPS tests

- Applicant to advise regarding any supplementary information further to its previous responses to the ExA's written questions relevant to s131 and 132.
- Any relevant submissions by any Interested Parties
- ExA to raise any issues arising from submissions made by the Applicant and Others.

¹ 'Affected Persons' are those persons whose land is proposed to be compulsorily acquired or otherwise directly interfered with by the use of compulsory powers

² Those persons whose land is not proposed to be compulsorily acquired but whose land/property may be affected by the construction or use of the proposed development such they may be able to make claims for compensation (see section 57(4) of the Planning Act 2008)

PLEASE NOTE

All Interested Parties who are proposing to attend and speak at the Compulsory Acquisition hearing in accordance with the outline agenda set out above are asked to notify the Planning Inspectorate as soon as possible.