

TEXT_CAH1_Session1_24022021_A1iN

Wed, 2/24 1:11PM • 1:21:03

00:08

Good morning. Can I just confirm that everybody can hear me clearly?

00:14

Yes, I can hear you.

00:16

Thank you very much. Can I also confirmed with Miss Patterson that live streaming of this event has not commenced please.

00:27

Live Streaming has commenced. Thank you very much Miss baton. For those people watching the live stream. Can I also advise that should we at any point adjourn proceedings this morning, we'll have to stop the live stream in order to give us clear recording files. As a result, it's a point at which we recommend to meetings and restarts to like the will in reset live streaming. You will need to refresh your browser page to view the restarted stream. I'll remind you of this again should we need to adjourn

01:00

the time is now 10:01am and it's time for this meeting. To begin. I would like to welcome you all to this compulsory acquisitions hearing for the application made by how is England for the a one in Northumberland. More Perth two hours Ellen gem development proposed comprises of two parts, with Part A being the widening of the existing single carriageway to a dual carriageway for approximately 12.6 kilometres of the existing a one between more Perth and Felton.

01:31

It includes approximately 6.5 kilometres of online whitening in 6.1 kilometres of new offline highway.

01:40

But be involves the widening of the existing single carriageway to a dual carriageway for approximately eight kilometres of the existing Awan between Enric and Ellen Jim.

01:52

Thank you for attending this virtual meeting. My name is Andre Pinto and I am a chartered town planner and planning inspector employed by the plan the planning Inspectorate.

02:04

I have been appointed by the Secretary of State to be a member of Japan or for the examination of this application. I am now going to ask my fellow panel member to introduce himself.

02:16

Good morning. My name is Kevin Gleason. I too am a shorter term planner. I'm a planning inspector employed by the planning Inspectorate and have been appointed by the Secretary of State for housing Communities and Local Government to be the lead member of the panel to examine this application.

02:36

Thank you. Together we constitute the examining authority for this application. And we will be reporting to the Secretary of State for Transport with a recommendation as to whether development consent order should be made.

02:51

You will have already spoken to and heard from Candice Patton, who is the case manager for this project. Miss Patterson is being supported today by James Bunton in George Harold, who are members of the Cates team with who you are likely to come into contact with during the course of the examination.

03:10

If you have any questions or queries about the examination process or technology we are using for virtual events, this should be your first point of contacts. The contact details can be found at the top of any letter you've received from us, or in the project page of the national infrastructure website. We appreciate that conducting an event in this way isn't ideal. But please don't hesitate to contact a member of the case team if you need help with technology.

03:39

Next, I'd like to ask those of you who were with us for the issue specific hearing yesterday.

03:45

To Be patient for the next few minutes while I run through a few housekeeping and introductory met matters that you will have already heard. Firstly, I'd like to deal with matters which are specific to virtual events. As some of you here today may not have attended one of our previous virtual hearings in the last couple of days.

04:08

This meeting is being held on Microsoft Teams platform and is being live streamed. In order to minimise background noise, can you please make sure your phone is switched off or tuned to silent in that you stay muted unless you are speaking?

04:22

As this is a virtual meeting, we've structured it in such a way as questions or points that you may wish to raise can be done. So it's a relevant point in the proceedings when we get to those points at Atlas q

to speak. Use your Microsoft team hand up function and please wait to be invited to speak at an appropriate time.

04:49

Can I also remind people that the chat function of Microsoft Teams want to be working. So please don't try and use this to ask any questions or comments.

05:00

Please speak clearly and loudly. If you don't manage to ask your question or raise your point at relevant point in time, there'll be further opportunities at the end of the meeting foods raise such questions further items on the agenda and any other matters.

05:18

Because the digital recording that we make are retained in publish the form of public record that can contain your personal information into which the general data protection regulations applies. To planning inspectorates practice is to retain and publish recordings for a period of five years from the Secretary of State's decision. Consequently, if you participate in today's meeting, it's important that you understand that you'll be live streamed and recorded in that digital recording will be published. If you don't want your image to be recorded, you can switch off your camera

05:52

will only ever ask for information to be placed on public record that is important and relevant to the planning decision. Therefore, to avoid need to edit digital recordings, what we would ask to try and do is do your best to not add information to the public record that you would wish that is kept private and confidential.

06:14

If you feel that personal information is necessary, please provide this in a written document so that we can redact before publication.

06:23

Does anyone have any questions on any of the matters so far?

06:33

Nope, I shall move on then.

06:39

The purpose of this examination is for the examining authority to examine the information submitted by the applicant interested parties and affected persons. As a result, we would like to resume to the to reassure you that we are familiar with the documents that you have sent in. And so when answering a question, you don't need to repeat it length, something that has already been submitted. If you want to refer to information already submitted, would be grateful if you could give the appropriate pins examination Library Reference.

07:16

As already mentioned, each time you speak Could you please introduce yourself in if you are representing someone who they are? Furthermore, the first time you use an abbreviation or an acronym, can you please give the full title is there are people with us here today, or listening on the audio that may not be as familiar with application documents as you are.

07:38

Whilst we accepted the majority of the discussions will be undertaken by those parties that have requests to speak there. This is a public examination, and therefore even if you haven't indicated that you wish to speak, if there is a point that you want to make, please feel free to indicate it's relevant time that you also wish to contribute.

08:00

The hearing today will be structured such a structured discussion, which will be led by the examining authority based on the agenda that has already been published. The purpose of the hearing is to enable you to answer any questions that we may have, and to ensure that we have all of the information that we need in order to make our recommendations to the Secretary of State.

08:28

To compose requisitions hearing is held to discharge the assembling authorities duty to effective

08:35

duty to affected persons who request to be heard. A number of affected persons have requested an opportunity to make the case on a campus requisition matters orally at this hearing. Specifically, we have received requests from Mr. fel have brought forth consultancy Mr. McKee of George F. White LLP. And Mr. Colin more of and Mr. Gary Moore

09:01

did agenda for this proposed requisition hearings was published on the planning Spectres infrastructure national infrastructure website on 16th of February, and it might be useful for you to have a copy of hands. I will also ensure now on my screen, the key headlines included in this agenda if you just bear with me for one second, please.

09:33

Can I just confirm that the agenda is now clear on screen please.

09:41

Yes, I can see that.

09:44

Thank you very much. Miss Patterson. substantive items on the agenda are as follows.

09:51

item two addresses the applicants case for composite requisitions and temporary possessions. Under Item three we'll consider some specific issues to

10:00

be addressed by the applicant. item four, we'll cover site specific representations raised by affected persons. And finally, item five will consider any statutory undertakers land issues. This agenda is for guidance only, we may add other issues for consideration as we progress

10:26

will seek to allocate sufficient time to each issue to allow its proper consideration. Building on the experience of other virtual events, we propose that today will be split into three sessions, each one of approximately an hour and a half. At completion of the session, it's around 1130. We'll have a break of half an hour before resuming at 12 and then we'll continue until 130. The final session of the day would take place between 230 and four o'clock. We will however be flexible about his timings

10:59

will conclude the hearing as soon as all relevant contributions have been made in all crash questions asked responded to. This may mean that we don't need all three sessions. But if the discussions can't be completed in are likely to take longer than anticipated, it may be necessary to prioritise matters in different others to further written questions and offer the composite requisition hearings.

11:24

Before we begin asking our questions, it is also appropriate to record that the examining authority asked a number of written questions in respect of compulsory acquisition matters. In default, we don't need to pursue matters where they have been satisfactorily addressed.

11:42

Finally, it is important that we get right answers to the questions we are going to ask. As I have mentioned, it is predominantly a written process.

11:52

Therefore, if you can't answer the questions that are being asked or required time to get the information requested, then rather than giving a restricted or potential Wrong answer, in the interest of the smooth running up the examination, can you please indicate that you will need to respond in writing. And we can then defer the questions to the next round of questions or intellect to hearing.

12:18

So before we move on to deal with the items detailed in the agenda, are there any questions at this stage about to proceed your site of today's hearings? audio tender?

12:33

I sorry, small cause here?

12:36

Yes. Mr. McCarthy? Yes. I would like to miss Mickey was intended to provide a representation for myself as an effective party to do in his absence. I would like to speak if you don't mind.

12:51

And gets fine. Thank you very much. Mr. Horse. Thank you.

12:58

And I would like now to take the names of those who wish to speak today at today's hearing. Please do not forget to state your name in who you represent. I would like to start with the applicant first. Mr. bassford, perhaps? Good morning, Mr. Pinto. In the normal web, these things actually attempt to start with video and then when it goes wrong, I will

13:26

move to audio only. My name is Howard bassford. I'm a solicitor and partner in the law firm, DLA Piper, UK LLP. I advise highways England, which is the applicant in these proceedings. With me is Mr. Mark Stoneman, who is the project manager at highways England responsible for this project. And also with me is Mr. Paul Hein, who is the value at the valuations offers agency who represent highways England in negotiations with landowners. It may be necessary at a later stage to introduce other members of my team, but as before I propose to leave the introductions at that, should others need to be introduced. I will introduce them at the time.

14:21

And that is fine. Thank you very much. Very helpful, Mr. basford.

14:27

Now, can I please go to Northumberland county council?

14:33

Miss Robbie, or I believe that you have actually asked earlier today to be specific refer to Katherine.

14:42

I'm not Yeah, I'm not valid. I just informalities find me. And I don't wish to I don't wish to speak today particularly I just asked to attend to be here.

14:54

If you need me to respond to anything on behalf of the authority.

14:58

Thank you. It's just

15:00

An opportunity for you to introduce yourself in any case, thank you very much. Thank you Miss Robbie.

15:06

Now

15:08

can I move us to Mr. Foul, please?

15:23

Mr. Phil, I believe that you are still with us. You are on mute.

15:30

Apologies for that. So let me see that Mr. Pinto?

15:36

Sorry, I couldn't I would you like to introduce yourself? I couldn't hear very clearly. Yes, yes. Hello. I'm Louis fell from Brookfield consultancy, representing a number of landowners along the route from between adekunle engine.

15:50

And do you wish to speak today? Yes, please. Thank you, Mr. fell. It's

16:03

Mr. Wilson.

16:07

Yes, Grant Wilson from the throne in the States, as we're represented by Louis Feld, Brock Thorpe, it might be unnecessary for me to speak today.

16:16

Thank you very much, Mr. Wilson. And,

16:21

Mr. Moore.

16:27

Good morning.

16:28

I don't envisage needing to speak today would only be if there was a question or something of good. Okay. Thank you very much, Mr. Moore.

16:39

And

16:43

Mr. Hawes, you have already intervened and confirmed that you would actually like to speak today.

16:53

Would you just like to, just for our record, would you like to introduce yourself again, and just say, which interests you or are you are aiming to represent today? Yeah, sure. Okay. Good morning, everyone. My name is Mark Hawes. I'm here today to represent Northgate farm.

17:12

Thank you very much, Mr. Horse. I believe that that is all present at the moment. And is anyone that I haven't asked specifically to introduce themselves, that wishes to do so.

17:31

Okay, I'll move on that. Thank you very much.

17:35

So this addresses the first item on the agenda, which is welcome introductions and arrangements for the hearing. Are there any further questions of an introductory manner of luminary net net to that you would like to raise now?

17:51

Okay, if not, I'm going to then pass over to Mr. Gleason who will lead on item two of the agenda. Thank you.

18:03

Thank you, Mr. Pinto. So item two on the agenda is the applicants case for compulsory acquisition CA, and temporary procession TP

18:15

I set out in the agenda, we're going to ask the applicant to present and justifies case for ca and TP and will wish to address a number of matters, which are set out.

18:30

Before doing so I just like to refer to the various documents, which we will be referencing today. It may be helpful to have copies of those two hand.

18:43

I would say as well. That's following the request which Mr. bassford made the the pre meeting will try and advise tomorrow

18:55

those documents which be relevant to that hearing, and do so in advance. But for today, the key documents are those submitted as part of the original application being the book of reference a PP o 20. The funding statements a PP o 19. Statement of reasons a PP o 18.

19:19

And then various documents which have been submitted during the course of the examination to date. So we have compulsory acquisition schedule, which is Appendix A one and that has referenced rep 323.

19:36

The section 127 statutory undertakers London rights table, which is appendix ca two

19:44

has a reference rep one oh 38.

19:49

append Appendix A three which is section section 138 statutory undertakers operators we have 1039

20:00

Appendix C a four which has the reference rep on 40 that summarises the purpose of temporary possession and provides the applicants justification for extensive view to land and the size of the plot.

20:15

And appendix ca five which is headed compulsory acquisition, affected persons and effects on human rights, and as a reference rep one, oh 56.

20:28

We may also refer to the draft development consent order, which was submitted deadline three and has reference web three double o four. And two may also refer to land plans, a PP double o six work plans a PP double o seven and general arrangement plans a PP Tableau eight.

20:52

Hopefully, we're not going to have to go through any of those in detail, but if possible, or if necessary, may put those on screen as we did with documents yesterday.

21:05

So on that basis, I'd like to begin by asking the applicant to briefly present and justify his case for ca and TP and in doing so, to explain how the proposals address the statutory and policy test under the Planning Act 2008. And also the Department for communities and local governments published guidance, which is entitled Planning Act 2008. Procedures for compulsory acquisition of land all refer to this document about the examination as the dclg guidance.

21:41

And in providing this overview, can the applicant ensure that human rights considerations are addressed? reference should also be made to the structure and contents of the book of reference statements of reasons and briefly the funding statement.

21:57

So Mr. Buffett, can I hand over to you please? First item?

22:07

Thank you, sir. I don't propose to make a long submission in relation to this matter, because the applicants case for compulsory acquisition and temporary possession is set out in the application documents and you service. Mr. Pinto have asked a number of questions where we hope we have gone some way already satisfying you the but the general approach is that the Planning Act 2008 provides at section 122, where a development consent order is made that it may can make include provision authorising the compulsory acquisition of land subjects the secretary state being satisfied as to a number of

22:58

preconditions. The first condition is that the land in question is actually required for the development which is to say it's necessary to include it, this is

23:10

to say that, if you were to build it, it would be occupied by the development or if you were to build it, you would need to acquire the land or obtain temporary possession of it to facilitate the works being carried out.

23:26

It may also be required to facilitate the development that would include land which is the that is required for working area or which is required for a drainage solution and where it is incidental. So, you can see that the purposes for which acquisition can be authorised are relatively wide. And then there was a there was the third,

23:49

a third

23:52

category, which is where land is given as exchange land for open space. Now on this project, we don't think there is anything which qualifies under that basis, we have had some other projects, but this is not one of those where there is extensive open space subject to acquisition. What I would say though, is that there is some exchange land given in compensation terms in relation to ecological matters, and that falls under the second category because it is to facilitate or incidental to the development. So, for instance, if woodland is acquired and will be affected by the project, then it is possible to acquire land and we're proposing to acquire land to allow habitats to be re provided on that.

24:43

That compensation land.

24:46

That is the first condition that it is required for to facilitate or incidental to the development. That's the first condition. The second condition is that there must be a compelling case in the publication.

25:00

Trust, but the acquisition of the land on a compulsory basis. And that is because the acquisition of land necessarily interferes with the common law rights of individuals and landowners to the enjoyment of their property. And so the state only very cautiously intervenes. In those circumstances, the case for the scheme must be compelling. And you will have seen in the application documents that the policy case for this project and the transport case for this project are made out in considerable detail, demonstrating that this project is justified and should go ahead. And then we perform a balance whereby the public interest in the scheme as a whole and the general common good, is weighed against the individual interests of landowners whose land may be affected. And that is then considered, and how is England's submission? through me, sir, is that there is a compelling case for this important scheme, linking sections of your carriageway, north of Newcastle and towards the Scottish border. And this is an important component an upgrade to the nation's strategic road network.

26:20

So that is the that is the basic law and the compliance with the the compliance with the basic law. Take taking this further, the Secretary of State has issued guidance, and this is the nhcs or the dclg.

26:38

You're absolutely right to characterise it as such, and this is something which I correct in documents when I'm marking them up as well. It's 2013 guidance, which was issued before the department became a ministry. And this sets out the procedure through which an applicant should go and the things that an applicant is expected to demonstrate when they are promoting pastor compulsory acquisition. It talks about the need to consult landowners which is certainly the case here and to seek to negotiate with them even interestingly, the guidance suggests in relation to long linear schemes that this is by any standards a long linear scheme, then in those circumstances, it may not be necessary to the same extent to negotiate. Nevertheless, Mr. Hein and his colleagues from the valuation office agency on behalf of highways England have been negotiating with landowners. They've made a considerable amount of progress, which you will already have seen in the sheduled to the compulsory acquisition questions, which are

27:43

ca a one in particular.

27:46

Those those schedules demonstrate how progress is being made. I can say from my own involvement in negotiations that they are definitely taking place. And that as this examination proceeds, we expect to be able to update you favourably with more and more progress in relation to those sorts of discussions.

28:06

The next thing to say is that

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having complied with the guidance, you asked us to look at making sure I'm following your agenda here. Look at the way that the compulsory acquisition has been carried out and documented. So among the application documents that we are required to submit for an application for development consent

are three critical documents. The first of these is the book of reference, and that marches hand in hand with the land plans. And it identifies by reference, the parcels of land and the type of acquisition or possession that is required over the relevant areas of land. It sets out the landowner and it sets out any other persons who might be interested in the land such as a tenant or a person who enjoys rights over the land or a mortgagee so that they are also properly informed and using the using all due diligence.

29:14

The consulting engineers and land references appointed by housing board from the engineering firm w SP, have carried out

29:23

a referencing exercise to identify the necessary landowners, which was considered to be correct, and is updated. We do check this from time to time during the examination to make sure that the book of reference is up to date.

29:39

The next document and I will change the sequence slightly here is the statement of reasons and what that does is it sets out in greater detail than I will today.

29:49

The justification for the acquisition of the land it does this on a parcel by parcel basis, so they're listed in there, and it addresses certain matters such as Human Rights Act compliance, and the

30:00

way that the case of the scheme has been assembled. And in that document, sir, you and anyone else who is participating in this examination should be able to identify the applicants case that is also supported by other documents such as the submissions in relation to planning, the transport case, the environmental statements, and so forth. So those all match together and provide a full picture of the justification. The reason

30:28

the final document which we want to refer from the application documents is the funding statement. And that is, because in the guide, the MA DHCS DHCP, the dclg guidance, there is a requirement that you be satisfied Secretary of State be satisfied that there is a reasonable prospect of the scheme big funded. And the public statement

30:55

provides the necessary certainty that that will take place, and that the funding will be available to enable this scheme to come forward in the public interest. And that supports that compelling case to which I referred earlier.

31:08

So this leaves me with one final point to cover I think, in relation to the matters that you wish me to address, and that is human rights. Now, as far as that is concerned, that the test, and this has been looked at by the by the Supreme Court by

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the Administrative Court. And what that looks at is the Human Rights Act 1998, which incorporates the European Convention on Human Rights into UK legislation. And it looks at the engagement of Article eight and Article One of the first protocol to the European Convention, which are, which relate to enjoyment of the home and right to property. And it looks at the balance that has to be undertaken before authorising a compulsory acquisition. And the test that applies that is one of proportionality. And so that is looking at concepts such as whether the amount of land acquired is too great or sufficient, and whether the land is needed. And also whether there is a means of compensation for landowners who are dispossessed some off their property. And the submission that I make on behalf of the of the applicant in relation to the Human Rights Act like Nike, is that the acquisition is proportionate, that there is a means of compensation for dispossessed owners. And so therefore, there is no

32:48

no conflict with the Human Rights Act 1998 in the grant or powers of compulsory acquisition for this scheme.

32:57

I hope that that has covered all of the matters that you wish to hear about. Needless to say, there is immense detail in the application documents, which I do not propose to take you through in detail just now.

33:10

Now, that's a very useful introduction, Mr. prospect, I think people listening will appreciate that, that provides a good overview of the position that you set out in detail in all of those documents. So thank you for that. So you mentioned the book of reference. Can I just confirm that you are contented current position is that you have captured all the affected parties in the latest version of the book of reference.

33:44

The view of the applicant is that the book of reference was up to date as at the point of application has been reviewed for the section 56 notifications. We keep it updated as the examination proceeds. And so the information before you we believe is up to date. Needless to say, things change people dispose of property. Tenants arrived tenants depart but understood. Understood. Thank you. Okay.

34:09

So

34:12

you've addressed human rights, and that's an area I want to focus on for a short while. And that is first item, second item on the agenda.

34:24

So section six of the statements of reasons addresses human rights, and describes three residential properties that would need to be acquired for the scheme.

34:37

The first one is north gatehouse. And the plight notice was agreed with the property owner

34:43

exchange for ownership completed in July 2019. And the land is now in the applicants ownership.

34:51

Is there anything more to say on that property I'm assuming from what's in the statement of reasons that that is now your

35:00

Property over the highways England's property. You know

35:05

it's unoccupied.

35:08

Yes, sir. That's That is correct. So So the point is that that the land is I couldn't confirm immediately if it's occupied or not. colleagues will pass me in a virtual post it note I'm sure. But the point is that there is no dispossession because housing that now owns the land at Northgate house, thank you, there is there is not Therefore, a an engagement with the Human Rights Act.

35:42

Thank you. So then the second third properties of both that Charlton mass junction,

35:50

the first one is East cottage. And then the second one is called mas farmhouse itself. And paragraph 6.1. Point three of the statement of reasons states that the land is required in park B for the construction of the grade separated junction. The applicant has been in regular discussion with the landowner and the blight application has been received, as its application compensation discussions remain ongoing.

36:21

Just to clarify the point, the wording of 6.1 point three implies there is only one landowner for the two properties. I'm fairly sure that from the book of reference and Reverend reps, there are two with East cottage which Mr. fellows representing the owners there Felicity Hester

36:46

and

36:48

his cottage and then references also made known as being Alison German ready, reddish Felicity and sorry Felicity, Mary, Alison Hester, and James Murray Hester.

37:04

So there's one particular East cottage is owned by a group of people. And there's a separate ownership for Charlton mas farmhouse, which is owned by me, Bill and sons, who are represented by George F. White, can just confirm that I've got the position right on the ownership that we are talking to two different groups of ownership.

37:31

Yes, I believe that that is correct, that the Hester's do own the cottage and the bills own the farmhouse. So

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to the extent that that is misleading, we can correct that in the statement of reasons to ensure that there is no

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mistake that just let me check if that is what the statement of reasons is one of the certified documents. And I see Mr. Fell has his hand up. I'll come to shortly. Mr. Phillips? Sure, he will confirm who is in discussion. But what I what I can tell you is that we are proceeding with negotiations with Mr. Powell in relation to the Hester's and there are negotiations also underway with with the bill. So in both cases, there are there are discussions. Yes. And I'll come on to those who moments. And Mr. Feldman's comment this point, just very briefly, yes, that's right, the Hester's own

38:34

East cottage plus the small paddock to the south of that property,

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or both, all the all our properties in to be included within the land take area. And just to confirm that

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negotiations are

38:56

we've agreed we've agreed matters. We're just everything is now sort of agreed. So we're, we're just waiting for will in due course, to formalise that at the appropriate time. But obviously, they're losing their property so that they're in the process of trying to find some alternative accommodation. But yeah, matters have been agreed with Paul Hein, and grateful that that's all sorted out. That's very helpful. Thank you for that confirmation.

39:26

That's useful.

39:31

Mr. Boss, do you want to come back on that particular boats is the cottage First of all, I was just going to say, very grateful to Mr. Bell for that intervention. The critical point there is that so far as matters are agreed then that properly also does not engage the Human Rights Act since the the dispossession is, is acknowledged and compensated and we're working with Mr. Phelan, his class

40:00

to document that as a matter of priority,

40:05

Okay, thank you.

40:09

So the third property then

40:12

john was farmhouse

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which is owned by the bills.

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This is one where there have been a number of representations made

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to the examination or levy. And

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issues

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appear to be somewhat

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some distance from being resolved. Could you summarise what the composition is, please Mr. Prasad means Unfortunately, we don't have anyone representing the bills to present their case. But you'll be familiar I'm sure with the written representations. I if that if anyone had been here, clearly, I would have asked them to present all of the what their position is, but if you can set out for for us please the position of the applicant? Absolutely, sir, I shall speak for a moment and the nice lost Mr. Mr. Hein of valuation office agency to speak to you briefly, discussion, discussions are underway. And that it is acknowledged that negotiations are taking place, obviously, what hopes that they will advance and

ultimately conclude successfully. My understanding is that the bills have this is not to be their principal residence following the works in any case,

41:42

stand to be corrected about that. But my belief is that they're moving to a new property, which is not terribly far away, it is on the other side of the chart and Myers junction.

41:55

So that they will not lose the principal residence.

42:04

And those those do not cause concern you. And ultimately, if it is necessary, then there are measures available such as ADR alternative dispute resolution, which enable discussion to take place, because I'm telling you about those those types of measure, it is important that you understand that we are engaging with appeals, that we are taking very seriously the need to negotiate with them that we would consider something like ADR

42:37

that that is a highly proportionate response, it's going further than we would in many, many cases, to agree a resolution. And so therefore, when you consider the Human Rights Act, if if we're unfortunately unable to come to agreement, then you will be able to report to the Secretary of State, that there's a proportionate approach here, that this is a single residential property where there might be a matter of dispute. And that that in the balanced against the

43:12

balanced against the overall position. This acquisition is acceptable and proportionate. I'm I'm informed by colleagues that the that what will happen is that the and I think it's very important particularly for the record that

43:32

for the bill family, some of the Beale family will are currently resident in the the existing farmhouse, we understand that they will move to the new property which is owned by other female family members. But doubtless they will want to discuss all of this in the context of compensation. And we wouldn't want to misrepresent the position or deadweight loss that they must they may sustain as a result of escape. Thank you. And our discussions ongoing with the family. They are I'm going to ask Mr. Mr. Hein, at this point to introduce himself to you and to explain where discussions have reached. I think they're right up to date. But Mr. Mr. Hein, perhaps you could introduce yourself and explain in relation to the negotiations with Bill and their properties generally, where matters lie? Yes. Good morning, sir. My name's Paul Hein from the valuation office agency representing the applicant so I can confirm that the negotiations discussions are ongoing and have been ongoing for quite some time now. We do have a difference in opinion of value as you would expect these things can become a little bit complicated.

44:51

There are a number of different elements to the property, farm an airstrip caravan storage, the residential dwelling

45:00

No, it is not a straightforward case at all. We have recently, the applicant has recently instructed an independent valuation to be carried out, which has been shared with the bills.

45:15

Hopefully that will help us to progress the agreement if possible.

45:21

But yes, I can confirm that we are we're up to date with negotiations, we have offered meetings to the viewers, again, to try and progress this as quickly and as sort of endlessly as we can.

45:37

Thank you. And

45:39

Excuse me.

45:42

The bills I have seen in their representations that they represented by George F. White as set out earlier.

45:53

Are you having discussions with Mr. White's as well? who's involved in those? Yes, that's correct. So that so they are

46:03

Yes, they are they are represented discussions have been ongoing, different several agents over the course of the negotiations, the latest one being in the George white,

46:14

we have shared the independent valuation with Mr. White on the bills, we are hopeful that this will allow more productive discussions to this, I think it obviously so we need in the interest of highways England is twofold. First of all, and when I represent public sector acquiring authorities, this is invariably the case they are

46:39

they are interested in two things. First of all person is properly compensated, but they the right amount is where they are seeking to reach for in the case of an acquisition, that the that the compensation is just a second that the public purse is protected, and the public purse is protected if the right amount of compensation is paid. This is this is not a commercial scheme with profit to be made. It is about striking the balance between the appropriate compensation Yeah,

47:14

that's fine. I thought I have further questions. I'll come on to them shortly. And Mr. Foul your handle? Your hand is up again.

47:23

Can I I've, I've I'm a friend of the bills. And

47:28

I've just run them whilst you started talking about this. And I've asked them if

47:33

they were aware that

47:35

there was no representation. There a bit alarmed that there wasn't. And so they've just asked me if I could just make a few little points if that was acceptable to you. So yes, I have no problem with that.

47:51

either. I think it's this is about somebody's home. So it's very important that their voices heard so completely understand that. Please carry on Mr. Bell. Yeah. So just just to say that there are two properties on the farm at the moment.

48:06

The main farm house is occupied by Mr. Mrs. Bill senior.

48:12

And

48:16

the son Martin and his partner Amanda live in.

48:21

It's called West Mize on on the west side of the a one West Mize isn't

48:28

is remaining in situ, although part of the paddock in front of it is is being taken, I believe, the main farmhouse where the parents live where Mr. Mrs. Bill senior live is obviously been taken as part of the landscape. And so they will need to find alternative accommodation

48:49

is obviously being the family home for them for for many generations. The background they were they were they were agricultural tenants and acquired the farm

49:00

12 I think 12 years ago, something along that line. So they've been there for many generations. And I think ultimately, Martin bill would have moved into the farmhouse at some point. So the the farm is is trisect did they have land on all parts of the on all four sides of the

49:21

both sides of the a one and then it's divert, dissected again by the road running east west. And so the land take is is impacts on all parcels of the land. As as Mr. Buffett and Mr. Lyon said that there is a an airstrip which is affected and shortened as a result whose caravan storage.

49:45

And so it is it is a major impact as Mr. Bass has mentioned to their property in their farming enterprises. And and so I know discussions are ongoing. I think

49:59

they will

50:00

Just like to reserve their position going forward, as you have you seen, there's been representations made by Mr. Bill, various deadlines, they are hopeful that discussions will, will end up

50:16

ensuring that things can be agreed.

50:19

But I thought it just be worth mentioning that it is for them as an emotional time for them, because it's a lot of family history. And I think it will make the farming of the land much more difficult. So a relatively small farm anyway, in comparison to other neighbouring farms, that it's been shrunk, and the access etc, at the moment where he crosses over the a one is going to be much more difficult, and they're going to lose their farm steadings. So they'll have no buildings, and all that's going to need to be replaced if they end up having a working farm there. So. So there's a lot of emotional attachment. And I know everybody is well aware of that. And it is difficult, as Mr. Hein said, there are valuation and discussions happening. And one hopes that that that can continue fruitfully over the next month or so and come to a resolution.

51:16

Thank you, Mr. Phil, that's a useful summary is still

51:21

on behalf of highways England, I'm able to say that, that obviously those aren't matters, which which are taken seriously. Miss Phil will know from our negotiations with him and his clients that we do pay proper attention to these sorts of things, no matter the scale or or value or the interest in question. And so, so that that is very much understood. And I would

51:49

particularly bills, who aren't here and aren't directly represented, except for Mr. felt very helpful intervention to understand that housing that does take this seriously and is keen to reach an accommodation with them in order to resolve the matter favourably. And whilst acknowledging

52:07

the this is an impact on family residence area, found over a long period by by the by the bill family, so so we understand that. That's reflected in our approach. Okay, that's helpful. Mr. Bell, you've still got a hand up to you won't say anything further. Apologies. I'll take it down. Sorry. No, that's fine. I Kiki. And thank you. It's encouraging to hear that negotiations are continuing and in the way and

52:38

I'm sure everyone would want those to be

52:42

resolved satisfactorily. But

52:45

we also as the examining authority need to bear in mind that until documents are signed and completed, we need to look at

52:56

the wider position. So I do have a number of questions relating to the acquisition of the build property, and which I'd just like to clarify this point.

53:10

And the first follows on from

53:14

the applicants response to questions ca 1.5. And this is their construction Rep. One Oh, 32.

53:26

And,

53:28

and the question we asked was

53:35

pointing out the section 5.5 of the statement of reasons, states that none of the alternatives or modifications considered would obviate the need. For ca and TP of the land, the applicant is asked to provide further detail to substantiate this position. And the response indicated the three options were considered for part B. But the two offline widening options were not progressed, because they were materially more expensive, and offered lower value for money.

54:04

And those three options are shown in figure 3.5 of the s. And they are

54:14

the green,

54:18

blue, and haven't actually written down the other colour.

54:22

Turning that up. So

54:25

my point is all my question is why would the green and the blue options which would have bypassed the farm not taken forward? And was any further detail provided at any consultation stage?

54:43

So yes, so the options that were considered and I have open the

54:51

the chirps through environmental statement here. I don't have the document number to hand but somebody will be able to supply that to you

55:00

No, don't, that's fine.

55:02

three options were the orange option, the green option and the blue option of those the other options are offline, which means that more land would be affected, they would, they would have a much more damaging environmental impact, and they would cost a lot more simply because of the the volumes of of works involved

55:32

in terms of the the alternatives and the consultation, I will have to submit that to you in writing, which we can do alongside our response because that that is not something I have now generally to quite understand that that's fine. And and then related to that or taking the the issue further. So, just before we leave that so let me just please, characterise your question accurately, would you just say again, the point that you are examining, so I was looking for the applicant to provide further information as to why the green and blue options which would have bypassed charmers farm when taken forward, and was further detail provided at any consultation stage.

56:36

Just like the the level of information would have been, as I stated on another project only earlier on today, appropriate to the level of design at that stage, but with

56:48

applicate and then following on from that, then

56:53

the applicants response to question Gen one point 14, which also related to this general issue about East cottage and rock charmers farm.

57:04

The response actually said,

57:07

the estimated cost of these two options as the green and the blue, were outside of the scheme budget and therefore unaffordable.

57:21

Now,

57:22

to me, that's

57:26

begs a number of questions and nuts.

57:32

How can

57:34

it implies that the scheme budget was already set? And there wasn't enough money to look at this and almost suggest that there was predetermination, that you're going to go for the online route rather than the offline options? And take your points? Mr. bassford? You said it would be more damaging effect and more costly to go offline. But is there any evidence to demonstrate that?

57:59

That is, that's my concern here. Else how far this was looked at before deciding you're staying online and having the impact

58:10

on the farmhouse?

58:14

The so the the, the budget question, first of all, is the way that projects are developed is that there there is a reference case designed for the most speaking generally rather than necessarily about documents I'm going to be able to produce to you. So there's a reference case, which is the the most

straightforward scheme. And what one does is one having identified the reference case, you see if there are other alternatives, which are available, which may perform better and environmental reasons of land acquisition reasons.

58:57

Those sorts of those sorts of variations are considered and then you test it against the reference case. Now, in a case such as this, whilst it is read, needless to say, I imagine the Treasury has an idea about how much it was to spend on highways, England organisations like the planning Inspectorate.

59:24

Various other items, and so you know, what your budget is in a in a loose sense. But needless to say, if something is discovered, and it causes costs to increase, then up to a point, then that is accommodated within the scheme. However, there's a point at which the Treasury says to escape Well, actually, you have just become so expensive that you want value for money, the benefits that you will, that will accrue will not be sufficient to outweigh the call on the public purse. And so what we're talking about here

1:00:00

is where that dividing line sits.

1:00:04

And we are seeing a situation where not only for environmental reasons, but also for cost reasons, it's not possible to say that the alternatives would have performed better than the chosen option, it is environmentally worse. And it is

1:00:21

it is more costly. So from the point of view of the public interest, those are not the those are not the schemes to promote. Having said,

1:00:34

having said all of that, the

1:00:40

There is, of course, here the balance in terms of the public interest. And it's necessary to say that this is a project that is being brought forward in the public interest, and where the case is made out of the application. And notwithstanding the oppression auctioneering. You have before you now the Beatles, who are the one remaining residential objector, with whom we're not in,

1:01:07

not in sort of, in principle discussions.

1:01:13

You all have before you the case for the scheme, and the question has to be whether for the one remaining object, the benefits to all travellers of resilience, of compliance with policy, of road safety, all

of those things are outweighed by the one residential impact. And so, we will provide the, the information you have found that, that, that that

1:01:47

environmental question, the the consultation question, those we will answer, but ultimately you're making the decision now with the information that just before you, and we would say that the balance of proportionality lies in favour of the scheme substantially in the scheme, notwithstanding the regrettable impact on the real family properties.

1:02:15

Okay, yes, I fully understand that position. No. But the key

1:02:23

point that I need to address

1:02:26

through

1:02:28

the

1:02:30

the CA matters and human rights considerations if there's a high bar, clearly to take someone's property, and I need to be sure that all the alternatives are appropriately addressed, and there just seemed to be one or two, maybe it's just loose drafting of responses to questions. But that line about taking

1:02:56

the options being outside the scheme budget doesn't seem to suggest to me that that was taken particularly seriously at that point. So I'd like to call clarification that it was taken seriously and properly weighed up, even though at that stage, you were looking at options rather than anything like the final design, there must be some consideration have been given to the balance between human rights considerations and environmental and cost considerations. Well, it the the position is that, that we we are at the position we are now and the alternative is before you, and the reasons for the for the selection are before you now. And regardless of where we were at that option earring stage and what was before that consultation, the point is whether the there is an opportunity for everyone to understand the position as it is currently.

1:03:58

Yeah. So, so that that that hind Woods look is is helpful to understanding how we have got here, but the point to which you must direct your mind is whether the balance is as it is now, and whether you can understand the the balance as it stands. Yes, if we, if we are able to reach an accommodation with the deals, you will not have to apply your mind to that at all. Understood, yes, obviously. But in the

event with the agreement isn't reached, then clearly we need to look at that balance. Okay. And that's just

1:04:34

that's why I'm just exploring these issues. Hopefully they will not spear an issue by the end of the examination, but who knows. So just a couple more

1:04:45

loose ends.

1:04:49

On this, then there's a reference made to

1:04:55

this is

1:04:58

Africans talking

1:05:02

appendix Gen. Three, I think it is.

1:05:09

response to question Gen 1.33 shows the options. These are the options for the junction itself rather than the previous option earring exercise. So I think there were four options presented. Options one and three were discounted based on consultation with landowners, it says, and not

1:05:37

bad bandages in question. Here are the bills. Yes, yeah.

1:05:43

And

1:05:45

I wasn't aware of what those responses were. And I think the reason I'm asking that is because it doesn't come become clear from reading the bill's

1:05:59

comments

1:06:01

that they were that they had commented on that consultation, either.

1:06:08

It, it may well be that this is an I will check the paper trail that gets us here. And it may well be that those were discussions that were undertaken on a without prejudice basis. So the bills are not so if that is the case that the bills are not going to say that before you and I I am merely speculating as to whether that is the case. But we would if that were the case, then we would have

1:06:40
planned

1:06:44
the day. So

1:06:47
sorry, Mr.

1:06:50
And he broke up have to said if that were the case. Could you repeat what you said there, please?

1:06:58
I was saying that, if that were the case, that bill's may want to reserve that position, so they could maintain an in principle opposition on this point. And obviously we respect that. So that is why I'm speaking speculatively understood, yes. Okay. So if that, however, were that the case we would have recorded it's in our documents out of respect for them by anonymizing it and saying as a result of landowner discussions. Okay. Understood. Yeah. And that they may, they may very well say, we're still not happy, even though you did that. And that that would be open to them to say.

1:07:41
Yeah.

1:07:43
Okay. And that there were other considerations as well there.

1:07:49
And where, and in particular, we have to bear in mind that north of trot and my old my Charlton Myers junction, there are

1:08:02
constraints in relation to flooding. Yes, as of Charles miles junction, miles junction, there are constraints in relation to archaeology. And there was the pony paddock owned by the Hester's, which parties were very keen to avoid affecting as well. And that that was achieved by a number of the options that are there for you now. So for instance, options one and three

1:08:30
adversely affect the painting paddock to say, shots and miles. Yes. Okay.

1:08:40

And thank you for providing that documents Gen three, which is helpful to understand what the options were just one final comment on that document. And certainly on

1:08:55

option two,

1:08:58

three, and four.

1:09:01

The Beals newly constructed house is shown to the southwest of the junction.

1:09:07

What's the relevance of, of showing that on this plan?

1:09:13

The game I'm going to speak speculatively out of respect for the negotiations that are undertaken. If you look at option one, which is in top left hand corner, you'll see the word South Charlton junction which run right across the field there by the junction, you see this sir, or house. Now, if you look at the other three images, you'll see the small blue

1:09:40

deal instance and that would have been right next to the embankment for the overbridge for Charlton miles junction. And so it is important to reflect that the new build property that the bills have there

1:09:57

has been taken into account in it

1:10:00

He's elected selecting a different design to the option one that is shown on these images. So it's obviously option three. That is the one that's contained in the works plans. Okay.

1:10:14

clarifies that point Thank you.

1:10:27

And

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number one this item purchased.

1:10:37

Mr. Bassett. Can you confirm the position then with blight notices that there are there were three that were served originally.

1:10:47

And

1:10:49

the peels there's a counter notice served I understand

1:10:55

it I shall turn again to Mr. Hein to address you on this, if I may. Personally Thank you,

1:11:03

sir. Yes, sir, the Beals term to blight knotless on the entirety of their holding, as is the requirement, we're serving the white Nautilus.

1:11:15

I was in the in the applicant, in conjunction with ourselves considered that to not all of the land was required for this scheme. Therefore, we served a counter notice for just the land that was required.

1:11:28

And that went out went back to the Beals and obviously discussions then took place. And eventually it was that was accepted the counter notice. And we are now in the position that we are in terms of trying to agree valuation matters.

1:11:45

Now,

1:11:46

it is there's an important point here when you're considering human rights. And that is the the effect of a blight notice and how it works. A blight notice works as a type of you may have heard, it describes this as a reverse compulsory purchase. It's one of the few instances where you can turn the tables on the acquiring authority and make it do something if you're a landowner. And in the circumstances where you have a light notice served, then you're indicating that you are willing to sell your property or the principal of the acquisition is therefore established. And that is that is different to a position where you object or where you are saying that you are you are losing your home, because you're willing to move is what your blind notice says.

1:12:41

That is not to take any less seriously the human effects and that one has to be sensitive and appropriate and dealing with everyone affected by a scheme of this nature. But the critical point for you is that the human rights point goes away, because the principle of the acquisition is accepted.

1:13:14

Can you just

1:13:17

explain that scan please. Mr. password? Are you saying that having served

1:13:25

having served the plight notice the bills,

1:13:29

human rights interests?

1:13:32

goes away to miss something? Yes, this this is an important concept in compulsory acquisition law, which is that what we're dealing with what you're dealing with is the principle of acquisition and whether that is fair and equitable. And the

1:13:51

the

1:13:52

key point is, whether that's objected to or not, now, if a person accepts something can take place,

1:14:00

then it means that they are they are exercising their human rights to make choices and that they accept that the loss is acceptable. Subject to listen is important the agreement of compensation which as we know is not a matter for you is a matter for the the upper tribunal there are certain if we were if we were offering a nugatory comms

1:14:24

compensation somebody was demanding large amounts of money that might be for you, but it's not. It's not the case that we're a public body we do things properly. So So once you've said okay, my lambs can be taken.

1:14:39

Because you've served the blight notice, then your human rights transfer to the question of whether the compensation is sufficient. And since we know that if the Beals and Mr. Hein fall out, they have a right to appeal to the lambs chamber of the upper tribunal.

1:15:00

Which will agree the

1:15:03

agree it will award the correct value of compensation. They will look at this specific circumstances and they will award costs of giving to that

1:15:14

to that tribunal, if appropriate, because of that, we know that if the only thing outstanding is the compensation, it will be fair and equitable and therefore, the human rights but the bills are protected. Okay. Thank you for that clarification. That's very helpful.

1:15:32

Okay.

1:15:34

Just two more questions onto this item, then, firstly, the

1:15:41

three

1:15:44

plight notices were served. One of them was described as being for messages. When when's B. Scott received in 2017? Is it Wednesday? He's written his web and Bs. Why

1:16:01

can

1:16:02

Mr. Plus with Ole Miss times please clarify which I thought it might be? Which plot or plots that relates to please.

1:16:15

Yes, sir. It's Paul Ryan again. So the winds be Scott light was for North Gate house.

1:16:20

So the southern end of the scheme? Yeah.

1:16:33

Good. Thank you. And then the final question.

1:16:38

capricans response to questions ca 1.3 confirms that the cost estimate of the schemes pay 261 point 6 million pounds. He stated this includes land acquisition compensation claims and claims associated with the scheme. The question also asked

1:16:59

about the CA costs themselves. Are you able to provide a response on that, please?

1:17:07

So could you read to me the

1:17:10

Would you mind terribly reading to me the particular question to which you're seeking an answer,

1:17:19

which is about this is can one your question can 1.3? Yes, yes. public statements, not identify the CFO separately from the project, or explain how it was arrived at please explain the anticipated cost of acquisition, I will reply to you in writing in relation to that, sir. The What I can tell you at this stage is that the full costs take for the project, both permanent and temporary, is calculated.

1:17:49

And

1:17:51

the that as the order limits are defined. And time goes past as we design up the scheme that is assessed. And then the valuation team identify how much land is within the order limits the type of land, the nature of the acquisition, and they provide cost estimates based upon that. Now, inevitably, those are not going to be the same as the negotiated costs. And so what they say and I obviously cannot give you this sort of information, they tell us what is the estimated or range of costs, which is likely to be applicable. And I will check this with my team. But my strong suspicion is we don't split out the compulsory acquisition costs, so that there is not a sort of race among landowners to capture as much of those costs as possible, which would be an entirely human response, but not necessarily one that is in the public interest. Understood.

1:18:49

Okay.

1:18:51

Well,

1:18:54

what we're not going to give you is our preliminary estimate of costs against each parcel of land, because otherwise, I wouldn't be showing our hand far too much. And the bell would be right.

1:19:08

He sent me with him. Sure. Okay, that that's fine.

1:19:13

I didn't respond response to explain the position, if not provide the numbers. deadline for would be helpful. Thank you.

1:19:22

Mr. Hyde. I suspect it's good to have a little homework on that one. Okay.

1:19:26

So that's

1:19:28

takes me to the end of

1:19:31

agenda item two.

1:19:35

captains case for citp. Is there anyone else who wishes to comment on any matter on the item to

1:19:46

not see anything? That's fine. And so it's now 20 past 11 rather than jump into

1:19:56

item three and have to stop in 10 minutes Can I suggest

1:20:00

That's, we take a break now.

1:20:04

20 past and come back at 10 to 12. Is that acceptable to everyone

1:20:09

else missed the passwords? in particular? Yes, that's fine for me. Okay. cup of tea is required. Yes, certainly.

1:20:18

So,

1:20:20

on that basis, again, the process is

1:20:25

Oh, sorry, I should just check. Mr. Pinto. Is there anything you want to raise at this point?

1:20:34

And thank you, Mr. Gleason. Now, nothing twice for me at this point. Okay. So the procedure will be that Mr. Pinto and I switch off our cameras and microphones.

1:20:47

But don't leave the recording, which will continue and the same should apply for everyone else. Please keep your computer's switched on. So now adjourn until 10 to 12 Thank you very much.