



Hearing Transcript

Project:	M5 Junction 10 Improvements Scheme
Hearing:	Compulsory Acquisition Hearing 1 (CAH1) – Session 1
Date:	15 August 2024

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M5J10_CAH1_SESSION1_15082024

00:05

Good morning, everybody. It's now 10 o'clock, and it's time for me to welcome you over to open this hearing. It's a compulsory acquisition hearing being held in connection with the application made by Gloucestershire County Council for an order for development, consent for the construction of an all movements, junction at m5 junction 10, a new West Cheltenham link road east of junction 10, from the A, 4019 to the b4, 634, and the widening of the A, 4019 to the east of junction 10, including a bus lane on the A 4019, eastbound from West Cheltenham fire stations to the Gallagher junction. Before I go further, can I just check with the case team that I can be heard my camera is working. Thank you, and the live stream is commenced. Thank you very much for anyone watching on the live stream, just to explain that, should we adjourn at any point, we will have to stop the live stream in order to give us clear recording files. When the meeting is resumed, you will need to refresh your browser page, and we'll try to remind you of that at any adjournments as they occur. Now, let me just introduce myself. My name is Edwin maund. I'm a chartered town planner and planning inspector. I've been appointed by the Secretary of State as the lead member of the panel of examining inspectors that together comprise the examining authority for this application. Now, now turn to my colleague to introduce himself.

01:41

Good morning. My name is Luke Regan. I'm a chartered transport planner and a planning inspector, and I've been appointed by the Secretary of State as a member of the panel of examining inspectors to examine this application. I will now hand back to Mr. Mond.

01:58

We're assisted today by our case Team. Today, in person, we have case manager, Spencer BARROWMAN and being supported remotely by Jessica Weatherby via teams, if you have any questions or queries about the examination or the technology we're using, then they should be your first point of contact. Their details can be found at the top of any letter you've received from us or on the project page of the national infrastructure planning website. I now pass over to Mr. Regan to deal with some housekeeping matters.

02:35

The compulsory acquisition hearing will be live streamed and recorded. The recordings will be published on the project page of the national infrastructure planning website as soon as possible after each part of the hearing closes to assist viewers and listeners, anyone speaking should introduce themselves each time they speak. As the recordings are retained and published, they form a public record that can contain personal information to which the General Data Protection Regulation applies. The rule eight letter includes a link to the planning inspectorates privacy notice, which provides further information on this topic. If there is a need to refer to information that participants would otherwise wish to be kept private and confidential. It should be in written form which can be redacted before it is published. If you prefer not to have your image recorded, you can switch your camera off. I will now

repeat the request made in the arrangements conference that to minimize background noise, please ensure that your microphone or telephone is muted and that you stay muted unless you are speaking during a physical hearing. We would normally have breaks to avoid fatigue, and we'll do the same in this virtual hearing. Our intention is to take a 15 minute break, around 90 minutes intervals, and a longer break over the lunch time period, the compulsory acquisition hearing is being held to ensure adequate examination of the provisions set out within the DCO seeking to authorize 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, compulsory, as explained in the detailed agenda, the first part of The hearing will deal with matters relating to the applicant's strategic case for the grant of compulsory acquisition and temporary possession powers. Consideration will also be given to matters relating to the statutory Undertaker's land under sections 127, and 138 of the Planning Act, 2008 and. And Crown land, it is not the place for individual objections to be heard. The second part of the hearing will consider all specific representations made by affected persons, as indicated in the agenda. Questioning at the hearing will be led by a member of the panel supported by the other panel member, it is for the examining authorities to determine how hearings are to be conducted, including the amount of time to be allowed at the hearing for the making of a person's representations. Our aim is to use our powers of control over the conduct of hearings to ensure that they are carried out as efficiently as possible, whilst remaining fair to all parties and thorough in our examination of evidence, participants should note that written summaries of your oral submissions to this hearing should be provided to the planning Inspectorate by deadline four please, which is the third of september 2024 I will now hand back Mr. Mondo.

06:06

Thank you. So I will now come to ask people to introduce themselves, and if I can start with the applicant, please.

06:17

Thank you, Sir Andrew. Take Casey for the applicant. On my left, Douglas Haycock of Burgess salmon to my right, James catamall, who's the project land assembly lead, Craig Jones, the highway design lead, and also Chris Beatty, who is the client project manager.

06:36

Thank you. Good morning, everyone. I come next to the joint councils.

06:42

Sir Catherine Knight and Andrew pattern for the joint councils being Gloucestershire county council as county planning authority and highways and street authority. Tew Borough Council and tautom and Borough Council as local planning authorities, and all as host authorities.

07:00

Thank you. Next national highways,

07:04

thank you. Good morning, says Sophie Stewart from DLA Piper on behalf of national highways. And to my left, Rebecca Marshall, Senior Project Manager and Miss Terry Preston. That's t e r i Preston as distant project manager national highways. Thank you.

07:20

Thank you. Mr. Wakefield,

07:25

yeah. Hi. Steve Wakefield,

07:27

affected party from witherbridge Gardens.

07:29

Thank you. Welcome Mr. Hadley.

07:33

Neil Hadley, I'm an affected party.

07:37

Good morning. Do we have any representations from blow homes today. No, okay, or anyone from Gately. Hey, Matt, on behalf of the I group, good morning. Thank you. Good morning. If you like, sorry, I didn't catch your name. Yes. Piers colicat, thank you. Welcome. Thank you. And do we have anyone from Cheltenham borough Council's property and asset management side?

08:22

No, okay, and do we have anyone from Northern grid electricity distribution? All right, okay,

08:39

so if I may, we've noted that Fabian Taylor is Taylor is here from GCC land.

08:47

Okay, Mr. Toner, are you able to introduce yourself? I

08:53

am. I'm here for observed observation only.

09:00

Currently, we're not picking you up in the room. Your audio is not functioning clearly. Just wondering if you can adjust things. Try again and hopefully we'll hear you. Apologies. I'm here for observation. Super, that's much better. Thank you. And you're representing the council's asset management side.

09:20

I'm here for sir. I'm here for observation only

09:25

on behalf of whom, glossy county council, right? So you're not here as part of the asset management side for the council.

09:38

I'm not here. I'm not I'm not represent representing the county council in this point, I'm here to observe only in this capacity. We have James catamore representing us in that respect,

09:52

right? Okay, thank you. Applause.

10:01

Okay, I think I know where I to. So just to try and assist people, either remotely or within the room, we have a number of documents we're likely to refer to today, and I think to give the applicant time. If we I think I'm sure we will wish to view the land plans. So if they can be ready to view when we get to those, and potentially the works plans and environmental master plans, so whether, I don't think we'll be able to see them all in parallel, but if you can have them ready to swap between, that would be helpful. We may also make reference to the book of reference, and that's currently revision rep three, zero 20 in the examination library the funding statement, which is a PP 036, the statement of reasons. Revision three, which is rep 3019 the explanatory memorandum. Revision one, which is rep 3015 we may also come to the Crown land plans, but I think that we'll see where we get to on that. So I hope everyone's had the chance to read our agenda prior to coming to today. During the hearing, we're going to start out by going through part one, and we have a number of questions for the applicant and other invited parties. And when we get to part two, we will invite each affected person who's indicated they wish to speak, to give their evidence in turn and respond to questions from us, and the applicant will then be given an opportunity to respond and present their evidence in respect of each of the parties cases as presented. So if I can then come to effect the Agenda Item number two, the statutory conditions and general principles applicable to the exercise of powers of compulsory acquisition. This section of the Act sets out the purposes for which compulsory acquisition may be authorized, namely, where the land is a required for the development to which the development consent relates, or B is required to facilitate or is incidental to that development. There is a sub paragraph C regarding replacement land, but I don't think that's relevant to this application. So can I come to the applicant? First of all, if you can provide us with a summary of how you consider your proposal meets those two tests of being the land being required and required to facilitate or be incidental to the development.

13:10

Thank you, sir. Andrew Tate, for the applicant, I'd start with the compelling case that is identified for the scheme set out in 222, to four and five point and section 5.4 of the statement of reasons, which in turn, cross refers to the planning statement. And there are other, clearly other documents which are supporting that position. Then so far as Section 1222, is concerned the land required for the development to which the development consent relates or required to facilitate or incidental to that development, the applicants followed the guidance in respect of each requirement, showing seeking to show that the land is needed, no more land is being taken than is reasonably necessary, and what is

proposed is proportionate. And Annex A of the statement of reasons sets out why the compulsory acquisition powers are necessary on a plot by plot basis. And there is further information in relation specifically to temporary possession and limits of deviation in response to your question, at 5.0, point one. And in summary, the applicants concluded that no more land is being taken than is reasonably necessary, and the land take is proportionate. And the statement of reasons at 535, concludes that the land sort is the minimum required for safe and efficient construction, operation and maintenance and what's necessary for mitigation. Five, three. Seven of the statement of reasons explains the land is required for the that land is required for the proposed permanent works, identifies that but also for the temporary working space. And 535 concludes the statement of reasons that the applicant has sought to achieve a balance between minimizing land take and securing sufficient land to enable the scheme to be delivered, the guidance refers to taking no more than what is reasonably required, and the applicant has sought to minimize land take as far as it can at this stage, but whilst not risking potential prejudice to scheme delivery by taking too little land. So that is the overview and the references and

16:01

but that's all I had to say under that particular subsection.

16:06

No, that's helpful. Thank you. What I propose to do is to go through a series of plots to test your position. So if we can have the land plans shown, please, and we'll try and do these chronologically as the sheets come through. But if we can start with sheet four, I

16:44

thank you. So if I can just turn then to the two plots, which is four, 1c and four, 1c Roman one which are identified pink, and therefore you're seeking to compulsorily acquire what appears to be the main line of the m5 in the statement of reasons for four, 1c you say that that plot is required for motorway signage, the South pound exit slip, northbound entry slip and environmental barrier. But when you bring across the works plans, the majority of that plot would not appear to show any indication of any necessary works. And the work limit, the highway work limit, is obviously only a very small proportion of that whole plot. And when we go to compare, when we go to compare the general arrangement plans and the environmental master plan with the works plans, those plots show reference to retained vegetation and main line of highway or motorway. So can you explain, in respect to four 1c why you're seeking to acquire that?

18:17

James gasmo, for the applicant, that the plotting question for over 1c has been reviewed through consultation with with national highways already, the plot is unregistered, and due to the sort of unregistered nature and the potential for unknown parties to come forward, it has been included with a higher standard of acquisition of permanent however, the decision has been taken by the scheme to reduce it to temporary possession with permanent rights, the sort of temporary possession aspect being required to undertake traffic management, etc, over the carriageway in general during the construction of the works.

18:57

So the land plan showing the full extent. That's the full extent of unregistered land. Because what my follow up point, when you look at the work plan and the limit of the highway works, it's stops substantially south of where that parcel extends. So can you also explain that that component to me,

19:33

Greg Jones, for the applicant, the proposed slip roads do extend slightly into that, into that plot for over 1c which is why, why they've been the ref, so, so the green, the green lines, represent the slip roads. And they, they are extended within that plot.

19:59

I understand they. Extend into the plot. But what I'm struggling to understand is why you are identifying the plot all the way up to the bridge, initially to compulsively acquire that rather than the portion that is showing where you're doing works.

20:20

James casimo for the applicant, the plot was originally included as a single plot, as it is all unregistered.

20:32

So in in the amendment you're proposing in terms of moving it to be temporary possession and permanent rights, is is that again, likely to becoming the same plot for the as shown on the land plans, or is it going to be subdivided to represent the extent of land on the works plans?

20:54

At this point? Sorry, James casmo, for the applicant, at this point, the the entire plot would be downgraded. It wouldn't be subdivided.

21:04

Okay, that was helpful. And in terms of four, 1c Roman one, which is the existing over bridge, again, similar question. Why required? And when the work planners would not appeared propose any works within it.

21:29

James catamo for the applicant. Again, it is an unregistered plot, which is where the sort of classification, as is has come in. It would be another plot that we are looking to amend, though

21:44

to be temporary possession and permanent rights

21:47

I need to just confirm, and then we can follow up with but I believe so. Yes. Okay, thank

21:51

you. As these both relate to national highways land, I wonder if I can seek your position and views on these two plots.

22:04

Thank you, sir. Sophie Stewart for national highways, if I can start by saying, just as an overarching piece to our comments today, they're all subject to us agreeing protective provisions with the applicant, albeit I will say up front that we are there or thereabouts, agreed on approach to land for the protected provisions. So in relation to plot four, 1c we have discussed with the applicant downgrading to temporary possession with permanent rights in accordance with some land principles that we've agreed. There is one matter in relation to that plot that we are currently checking and need to confirm with the applicant, and that relates to works package 1n which is an environmental barrier, if that feature is ultimately, or will ultimately come back to national highways, then we have agreed with the applicant that actually the plot can be downgraded to temporary possession only if there is uncertainty around whether that feature will form part of national highways estate or the local road network, or indeed, the applicant separately, then we are content that that will need to stay as temporary possession with rights because of the nature of the land is unregistered, and we agree, in relation to Four, 1c Roman one, likewise, that there's a downgrade. Um, grade on that plot that we're expecting to see come forward subject to that we're

23:52

happy. Thank you. Okay, I'll move on then to plot four to a which is identified as green for temporary use. And it may be that this is the parcel of land that you're referring to for the construction of the environmental barrier. But again, in the works plans, they show the environmental barrier only extends down a small section of the area adjacent to barn farm, yet the land plot goes well beyond it. In the general arrangement plans, nothing is shown, and in the environmental master plan, again, the extent of the barrier would appear to be somewhat less than the plot. So need to understand the extent of the plot that you're seeking, and whether there is a you know what. What is the reason for that? I.

25:14

Uh, James casmo for the applicant, in a similar way to other plots, the whole plot is colored for temporary take, as opposed to sort of subdividing out for some of the works within it, as it all falls within the same title.

25:40

So as a general approach, that's what you've been seeking to do. You've been looking at the whole parcel, as opposed to taking a portion of a parcel, so it may extend beyond that which you actually need

25:55

for specific works within the part. Yes.

26:01

So are you able to demonstrate then those two tests in each of those plots, that they're required or incidental? Because it would seem that potentially, you're identifying more land than you might need.

26:36

James casmo for the applicant, if we can take that question away, sir and come back in relation to some of these plots, specifically at deadline four, please. Okay, thank you. Applause.

27:09

If we move then on to sheet five, we have plot five, five, a which is shaded in blue, temporary use and permanent rights, and this is part of the construction compound number two, as set out within the statement of reasons, but it obviously includes Sheldon cottages and the areas around Sheldon cottages. Now I think you were saying yesterday that progress has been made in terms of your negotiations with that owner, so things may have changed, but again, is just understanding the differences between what the statement of reasons shows, and then the general arrangements and environmental master plans, which don't tally with what the statement of reasons saying the plot is used for. So general arrangement plans are showing is retained vegetation and dwellings to be retained, same for the Environmental master plans. So it's understanding that apparent contradiction I

28:58

James casmo for the applicant, as you correctly say, Sir, the negotiations to acquire the site here are significantly progressed. We have agreed terms. We're looking to progress the legal agreements so there will be a change in this area. At this point, the whole area has been included in the works plans for the construction compound, as it is envisaged that the cottages would be vacant during the works as detailed in the EAS and as such, they will need to fall under the control of the contractor during the works, although they would remain based upon the current design and detail. So

29:43

so the actual residential plots aren't needed incidentally to effectively avoid the conflict between occupation and construction is that. A fair summary.

30:01

Yes, correct.

30:02

Thank you. That's helpful. So we move on then to sheet six, and it's plot six four, again identified as land to become culturally acquired. And the statement of reasons says this is for the construction of the new southbound entry slip. But that isn't what's shown on the works plans, because that plot would not appear to be included in that area, and it's identified in the arrangement, general arrangement plans and the environmental plans is retained vegetation. So if that vegetation is to be retained again, I'm struggling to understand why you would need that plot for the new southbound entry

30:55

slip. James casmo, for the applicant, just confirmed that was plot six over four or Six over four, six, over four,

31:01

a positive four, a

31:35

sorry, it's a similar concern for plot six, 4b, Roman one, which The statement of reasons is giving a different reason required for the construction of a flood storage area east of the m5 south of the A, 4019, but again, is shown as retained vegetation on the general arrangements plans and environmental master plans. So it's just trying to understand why you're seeking to acquire that and when it wouldn't appear to be contributing to construction because it retained vegetation.

32:16

James gasmal, from the applicant, there is a new ditch, linear ditch feature being installed in that plot as well. I think we will review the works Numbers that relate to it in the statement of reasons and confirm whether that is correct, as is at deadline four. Thank you. Okay, thank you.

32:41

And that's the same for both of those plots. You

32:52

just confirm the second plot, please, sir, yeah, sorry,

32:54

six, dash, 4b, Roman, one. Sorry, I may have missed that out.

33:09

We'll have to come back to you sir on the second plot. We can't say it out. Thank you. Okay.

33:13

Thank you. Applause.

33:23

Okay, if we can go on to sheet 11.

33:40

And there are three plots here, 11, one A, 1b and 1c all identified as blue for temporary use and permanent rights. And in the statement of reasons, it's described as flood compensation and equally for each of those plots on the works plans, it's shown as flood compensation, but within the general arrangement plans and environmental master plans, all three plots don't appear to have anything on those so seeking clarification as to the apparent contradiction within the plans.

34:31

Uh, James catamof, the applicant, in relation to those three plots, there are no physical changes being proposed. Uh, purely a change to the the flood characteristics in those areas as such, that's where the sort of discrepancy between the plans comes in. This is where we have the agreements in relation to flooding progressed.

34:53

Okay, that's helpful. Clarification. Thank you. Applause.

35:04

If we then look at sheet, 15, again, two plots identified for flood compensation. 15, 3d and 15, four, a again, both temporary use permanent rights. The

35:32

Works plans show them for flood compensation, as do the general arrangement plans. But the environmental master plan doesn't. So whilst I can understand the explanation you've given me for the previous plots, I don't understand these will be a different explanation for these two I

36:15

James casmo for the applicant, I would like to take that away Sarah and come back to headline four.

36:21

Okay, thank you. Staying with sheet 15 for the moment. Then 15 4d and 15 5c plots both identified green for temporary use and in the statement of reasons as needed for the construction of the link road, but within the works plans, it appears to be identifying as for a new public right of way. And so again, it's understanding that distinction. And again, there's a not a consistency between the work plan, the general arrangement plan and the environmental master plan as to the new public right of way. So it's trying to get that clarity for 15 4d and I wonder, with 15 5c which appears to show in the work plans, new public right of way, whether that should actually be 15 3c rather than 15 5c i

37:54

James casmo for the applicant, looking at the work plans. So as we are the footpath itself will fall within the plot immediately east or west of the plots you've questioned, those plots are purely needed for working space to facilitate the works, as opposed to where the right of way will be facilitated. We can provide an overlay for that area, if helpful deadline for

38:20

I mean potentially an overlay, but also just, can you revisit the general arrangement plan and the environmental master plan? Because the right of way doesn't follow through consistently on each document. I'm assuming the right of way it may be because it's difficult to line up exactly the plot relative to the master plan, because you understand why, but I've been linking that through to what the statement of reasons is telling me, and there doesn't appear to be that alignment. So it's just, if you can just have a look across each of the documents to ensure there's that clarity, and if then an overlay is going to help facilitate understanding of that, that that would be beneficial. Thank you. We will do, sir, thank you.

39:20

So again, staying with sheet 15, plot 15 8l identified again as blue, temporary use and permanent rights. Statement of reasons saying it's the diversion of the 170 meters of gas main. And that is similar, I think, for 15, 8n and the works plans, then you show a narrow section following what I assume to be

the root of the gas main. And. Um, but again, there's nothing shown on the general arrangement plan or the environmental master plan. So just trying to understand again, that possible contradiction, I

40:34

uh James casmo for the applicant, the diversion isn't shown on the environmental plan. It is shown on a separate utility. Utilities diversion plan, though, as are all diversions required for the scheme,

40:54

right? So that I need to cross reference that to the diversion, can you just give me that reference for the exam library or your document reference so I can just

41:14

James casmo for the applicant? We don't have the reference to hand, but provided immediately following,

41:19

okay or in your written note, I don't, I don't mind. Thank you. Q,

41:35

sorry, okay, then if I can now turn to the Crown land plots. And the first one, I think, is on sheet 13. And it's plot 13. Three are identified as for temporary use. And the statement of reason says required for the realignment and dueling of the a 4019 required for the construction of environmental barriers west and east of the green and north of the a 4019 again, there is a discrepancy between what the general arrangement plans and the environmental master plans show that There doesn't seem to be anything on the general arrangement plans, but the environmental must master plan shows the noise barrier in a cycle lane. So again, I'm just seeking clarity as to the distinction between those two documents and whether they should be showing me the same thing. I

42:48

James castle for the applicant, the plotting questions just confirm was 13 over three are That's right, yes, I

42:55

James

43:17

cashmoff, the applicant, could you just confirm The specific query on the plot. Sorry, sir, that's

43:22

fine. It's the it's trying to understand that the description in the statement of reasons says required for the realignment and Duncan of the a 4019 required for the construction of environmental barriers west and east of the green north of the a 4019 but then when I look at the general arrangement plans in the environmental master plans, I don't get a consistent picture of including each of those elements. The environmental master plan shows me the noise barrier, cycle lane, but the general arrangement plan, I

don't think does so. It's just again, trying to understand whether those plans need to be adjusted to show a consistent arrangement or an explanation as to why they don't.

44:15

James gasmoff, the applicant, I think so. It's another one we'll need to take away to come back on the detail and whether there is a separate plan that needs to be read in conjunction. Okay,

44:24

thank you.

44:32

So again, Crown land plot 13 six, a statement of reasons saying it's a new right for the construction of a service road running east and west of the green. But it appears to be within the nothing on the works plans showing that. And again, it may be me not overlay. Precisely the work plan onto the general arrangement plan, etc, but general arrangement planning, environmental Master Plan appear to show it as species rich grassland. So again, it's understanding whether it's something that you need for the construction of the surface road running east west and

45:54

James casmo for the applicant, The Verge detail within plot 13, six over six, a will need to be altered as part of the installation of the service road. I think again, it may be some detail being missed with the direct overlays, and then overlay will be provided.

46:13

Thank you. The two plots for Crown land that currently identified for compulsory acquisition, 14 stroke five A and 14 stroke seven A.

46:34

Is it still the intention that you're seeking to acquire those? I

46:46

James casimo for the applicant, yes, sir, it currently is the intention to acquire those we are in negotiations with the agent acting, and terms are being progressed with some detail to be refined,

46:59

okay, well, we'll come on to the legislative test for that later on, but helpful for that confirmation at this stage. Thank you. Now we got in deadline three additional letter of clarification on plot 14 for a with regard to crown estates position on the plot. I don't know whether it's still owned by point view or formally owned by point of view.

47:34

They were effectively saying it wasn't Crown land, I think. And I don't have any reason to dispute that. But again, it's just understanding why you would require that small parcel, as it would appear to be, beyond the southern extent of the line of deviation for the highway works. You

48:22

James Catamount, for the applicant, the plot is required for footway improvements that are included in working areas to deliver them.

48:32

Okay, thank you.

48:41

I think I've probably gone through enough examples just to give me clarity. Thank you.

48:59

So before I move on, are there any other parties in the room who would wish to raise any issue at this point regarding the this part of the agenda? No, okay. Thank you. Applause.

49:28

So if we then come to sort of Part B, whether all reasonable alternatives to compulsory acquisition have been assessed.

49:50

Sorry, I'm, I'm, I'm missing something out. I need to ask national highways at a point, apologies. Um, national highways in there. A statement I've identified as item 11, that you've conducted your discussion with the applicant on the accuracy of the land plans. Do you still have concerns about that? And if so, do you have any specific examples where you believe errors remain, or is that now resolved?

50:26

Thank you, sir. Sophie Stewart, for national highways, there is one plot that we discussed yesterday with the applicant that they're taking away where they've included some land cited as national highways registered title. It's a very small area of land that's not actually within our title, but they've taken that away yesterday to look at other than that, we've now conducted a plot by plot review, and from national highways perspective, we're satisfied.

50:53

Thank you. And my follow up point in with regard to what national highways originally identified in their initial relevant representation was that more land had been identified than you deemed to be necessary. Is that? Does that remain the case? Or is again? Is that something that is now resolved?

51:16

Thank you, sir. Sophie Stewart for national highways, it remains the case in so far as say, you've already explored with the applicant this morning, for example, the inclusion of long linear plots on the main line of the carriageway where there are works that will perhaps only cross at one particular point. But national highways in consideration the fact that protected provisions in this respect are almost agreed and accepting of the fact that until detailed design has been completed, the applicant can't

necessarily identify exactly where certain apparatus or infrastructure will need to go. National Highways are satisfied with the approach that's been taken.

52:00

That's helpful. Thank you.

52:18

Switching myself off so turning then to the reasonable alternatives to compulsory acquisition, the guidance relating to procedures for acquisition of land, at paragraph eight advises that the applicant should be able to demonstrate to the satisfaction of the Secretary of State that all reasonable alternatives to compulsory acquisition, including modifications to the scheme have been explored, so we note what has been said in the statement of reasons at section 5.5, but can the applicant provide more detail on how they have explored all reasonable alternatives to compulsory acquisition, including looking at any changes to design of this their preferred route.

53:07

Thanks, sir. Yes. Andrew Tate, for the applicant, says you indicate we've addressed that at Section Five, five of the statement of reasons. And there are two strands, one in terms of the design process, and the second in terms of seeking to acquire by agreement and continuing the process of it during negotiation with interested parties, continuing the process of reducing the land take or downgrading the level of interference where practicable. So in relation to the latter point,

53:59

maybe I can bring in Mr. Catamount, particularly given the presence of online of Mr. Colicat, ask him, just to give an example of the position in relation to the house and the tree and the downgrading there from permanent rights to temporary possession. That's taken place and is recorded in rep three through the book of reference, statement of reasons and other amendments, including to the land plans and the DCO. That's, I think, plot 16 by B. But Mr. Catamaran, can you give some color to that example?

54:44

Yes, certainly. James Catamount, for the applicant, corrected is plot 16 over 5b which was originally included as temporary possession with permanent rights required in relation to the diversion of existing utilities. It's become clear through the continued. Engagement with statutory undertakers, along with the owner of the property and the occupier through their agent that actually it's a service, as opposed to utility itself as such, the plot has been downgraded to temporary possession only to affect the works as no permanent rights will be required. Thank

55:22

you. In relation to the design process at an earlier stage, I don't know whether Mr. Jones can give an example of how seeking to minimize the need to take land has informed the project Craig

55:41

Jones for the applicant. Yet the scheme design has sought to minimize impacts on properties where possible. But however, impacts have been unavoidable in places, principally due to the proximity

number of properties around the located around the m5 itself and the a 4019 where impacts have been unavoidable, we have sought to use use these areas to mitigate impacts for retained properties. An example of this is is on the the a 4019 at the at the akinton junction, where impacts on properties to the south of the road were unavoidable, so we sought to use use that land to introduce mitigation for retained properties to the north of the road in terms of the provision of service roads to those properties and space for noise barriers that that process then was, was was further kind of further iteration to that process where we received Comments from landowners at Elton Rowan property, where they they, they suggested the scheme would would would have an impact on on an existing vegetation at the front of their property. So a further, a further realignment of the the a 4019, away from that that that boundary was then, was then included within, within the design.

57:30

Sorry, that's Elton lawn. That's that front onto the a 4019, itself. Does it correct? Yes, okay. Thank you. I

57:50

Okay, so if we then move on to whether the Secretary of State could be satisfied that the land proposed to be acquired is no more than is reasonably necessary. We've heard from national highways already as to the progress that's been made on that. I think you've already sought to explain to us your approach in minimizing land take, and then subsequently looking at reducing the extent of impact, or right or and so on to minimize that. Are there any further examples or so on the you're able to provide at this stage,

58:51

it may be appropriate if we put some further examples in writing that that's helpful. Okay, yes, thank you. A flavor, I think under this head, it's relevant to note the effect of Article 21 of the draft DCO, which, having a regard to the knowledge that would arise at the detailed design process, would only grant the undertaker power to acquire so much of the land that is required. So there's another threshold to pass to meet the tests set out in Section 1222,

59:52

okay, now that's helpful. Thank you. If we can then turn to the explanation in respect of parameters and limits. Of deviation. I just asked the council or national highways, have you any concerns or comments in relation to the level of flexibility afforded by the limits of deviation in relation to the compulsory acquisition tests being considered this morning. So if I can come to the joint councils first,

1:00:26

so cares for night, joint councils. So the joint councils are here literally as the LPN host authority. Don't have any comment.

1:00:34

Okay? Thank you, national highways.

1:00:38

Thank you, sir. Sophie Stewart, national highways, again, subject to agreeing the protected provisions which are there or thereabouts with relation to land, no national highways wouldn't have concerns with the limits of deviation.

1:00:55

Thank you. So again, I'll open that up to to the room and also anyone online. Mr. Hadley. Neil Hadley,

1:01:05

my plot,

1:01:06

which is 16

1:01:07

over nine a I question why approximately half an acre land take my land is required for a possible traffic light pole or other signage.

1:01:22

I won't ask the applicant to respond to that just yet, because I think we can come to that when we're dealing with the part two of the agenda as it's very specific to your individual plot. If that's all right. Thank you.

1:01:39

So anyone else wish to raise anything? Anyone online? No, all right. Thank you very much.

1:01:57

So we then, I think, move on to the test set out within Section 122, brackets three of the Planning Act 2008, is there a compelling case in the public interest for the land to be acquired compulsory and the public benefit, whether that would outweigh the Private loss? Now I know I set out in the agenda that the next point would be Roman two, but I think, having reflected on it, if I can do with deal with Roman three first, and we'll come back to Roman two, because I think that that works as a as a better line of inquiry. So if I can then come on Roman three, the applicant, if I can invite you to explain how you have conducted the balance between public benefit and private loss, and in particular regarding where the loss results in the loss of a private home. So

1:03:05

Thompson, Andrew Tate, for the applicant. So we set out the balance in the statement of reasons, having regard to the engagement of of human rights, in particular article eight and Article One of the first protocol of the ECHR at 631, to 63, five. And that reflects the series of considerations that inform the Cabinet meeting of the applicant authority in december 2023 so in summary, the applicant considers that there's a fair balance between the public interest and seeing the scheme proceed, underpinned by the need with the private rights that will be affected by the compulsory acquisition. Relevant to that is whether the land is the minimum necessary and subject to the checking exercise that you've asked us to undertake, it is considered to be the minimum necessary to ensure delivery of

the scheme, and the interference with human rights is considered to be both proportionate and justified, having regard to the objective to minimize harm, which has informed the project whilst achieving the objectives of the project, so that

1:04:56

the further. Consideration that, particularly in connection with the loss of private homes, is the steps that the project has been seeking to secure those interests by private agreement, rather than compulsory acquisition. And I can ask Mr. Catamall to provide an update on the position there in relation to the numbers of properties required and how many have been acquired and the current state of play.

1:05:34

James catama for the applicant, there were, well, there are, sorry, 24 residential properties invented by the scheme. 19 of those have now been acquired. There is one which has exchanged and is progressing through legals, two where terms are agreed, and then a further two where negotiations are progressing. I

1:06:04

i can, i just clarify the number you say 24 I think the DCO talks about the demolition of 33 I may be misremembering that, but I and I think also from recollection, the statement of reasons, talks about 22 so it might be my memory playing tricks on me, but I don't want to wrongly report the number of homes affected. So what I'll ask you to do is just to check the total number that are affected, whether that's by total demolition, which is also the most significant, or whether there are other properties that are not to be demolished but still affected. If you can clarify those numbers for us. I think that would be helpful.

1:07:04

James casmo for the applicant, yeah, we'll take that away, sir, and come back. Thank you.

1:07:10

It may or may not relate to this point rather than the earlier point. It overlaps. But for example, in these in the alternatives, chapter, three at 357, which 3.5 point seven, which is dealing with the selection of the Western link road, where there's the most theoretical scope for other alternatives, having regard to the constraints on the other two sections, in relation to corridor three, that was the option that was selected, and the box that shows the factors taken into account, including impact on properties the selected process, the selected corridor, had the least impact of all the options on on properties the

1:08:12

Thank you.

1:08:17

So if I can just ask you then to spell out to me what you see to be the main public benefit that would arise, and whether that there are a series of public benefits that you consider we should take into account. And if so, should they be considered as a whole, or whether they are sort of separate component parts and

1:09:29

sorry for the delay. So I mentioned earlier the references in the statement of reasons at 2.2 to a to 2.5 but following on from that of the objectives for the scheme and the the. They're not set out in order of priority, but it's clear that so far as the underlying need, it's the objective to support economic growth and facilitate growth in jobs and housing by improving transport network connections in west and north west Cheltenham, enhancing the transport network in that same area with the resilience to meet current and future needs, improving the connectivity between the SR and the local transport network west and north west Cheltenham, and, fifthly, providing safe access to services for The local community, including the uses of sustainable transport modes. There's a fourth which is to deliver a package of measures in keeping with the local environment, establishes biodiversity net gain and meets climate change requirements. One might say that isn't an engine in itself, but it is a an important element of the overall package, clearly, and there are net gains in in the context of the biodiversity metric. So those are the objectives. The that's underpinned the need for the scheme is underpinned by the documentation that's before the examination, first in the form of the work undertaken undertaken for the JCS leading to DS seven, which showed the necessity for a scheme for the the scheme to release a four and a seven the allocations. But we'll provide you in detail later on with exactly what that showed in terms of the scheme and how it's defined, and I appreciate that something we're going to do. Then there's the HIF bid work in 2020 endorsed by Holmes England as to the need for the intervention that is proposed to enable not only a four and a seven, but are not some element of resilience, which is the second objective to go beyond simply 2031, and a proxy has been used for North West Cheltenham. And that's further underpinned in terms of the need, but by the Work Commission, by the county councilors, Highway Authority, and submitted to The hearings is GCM three. That's rep 65 which confirms the severity of impact with a four and a seven on the network without intervention. And it includes in that appraisal the mitigation measures that are proposed, for example, in particular, by law in their currently undetermined application. And concludes that there are severe impacts on the network with their even with their mitigation, absent an intervention, there is no alternative that has been identified, or no alternative identified by highway authority, or homes England, or any other party, or national highways, for that matter, which would achieve the objectives of the scheme. There's nothing before these hearings, and so there is, I would indicate, suggest that there's a powerful case for the need, which is why we here have invested the time and resources to bring this matter for you. So that's the compelling case, and it's a compelling case for a need which is accompanied by all the appropriate and necessary mitigation measures which are explained in the evidence. So, as indicated, the statement of reasons touches a. Uh indicates that in 2.2 and how the number of homes and jobs will be unlocked by

1:15:16

this intervention. And it is also summarized at 5.4 of the statement of reasons under the heading compelling case. And that ties in also to some of the policy references, in particular to the

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reference in Riz two, and separately, the local transport plan and the infrastructure delivery plan, which are tied into the JCS, which we've already addressed you on. I'm sorry that sounds that was rather long, and you may have expecting that something shorter, in which case I apologize.

1:16:04

No, no, no need to apologize. Important, we hear your full explanation. So I welcome that. So it's no problem from my perspective at all. Can I then just check around the room whether there is any divergence of view with regard to the public benefit that may arise or would arise from the department should it go ahead. So I just point to joint councils in the first instance.

1:16:41

Catherine, no, joint councils, no, we haven't got anything further to add.

1:16:45

Thank you. London and national highways also in agreement with that.

1:17:01

Sophie Stewart for national highways, I think the only thing national highways would say at this time is that national highways haven't undertaken any work to determine national highways accept that the residential development will give rise to impacts, but has not undertaken any work as to the appropriateness of this scheme, or indeed any other scheme.

1:17:32

But equally, I can, I sort of turn it on its head. You're not seeking to present an argument that the public benefit that the applicant is setting out that you have evidence that would contradict that?

1:17:46

No, sir, thank you.

1:17:50

And again, I'll come to the room to see if anyone would wish to respond further.

1:18:02

No, that's fine. It's welcome. And again, virtually to see if anyone in the virtual space has anything they would wish to add at this stage. No, okay, thank you.

1:18:19

I think it might be a due time just to take a break now before I move on to the question of of private loss that we'll visit next so it's just about 20 past 11, so if we resume at 25 to 12, and hopefully that gives everyone an opportunity to stretch their legs and have a comfort break. So again, for those people who are attending virtually or via the live stream, you'll need to reconnect or recommence your browser when we return at 25 to Thank you. Applause.