



Hearing Transcript

Project:	M5 Junction 10 Improvements Scheme
Hearing:	Compulsory Acquisition Hearing 1 (CAH1) – Session 2
Date:	15 August 2024

Please note: This document is intended to assist Interested Parties.

It is not a verbatim text of what was said at the above hearing. The content was produced using artificial intelligence voice to text software. It may, therefore, include errors and should be assumed to be unedited.

The video recording published on the Planning Inspectorate project page is the primary record of the hearing.

REDACTED_M5J10_CAH1_SESSION2_1508 2024-

00:05

Okay, it's 25 two. So welcome back, everybody and again. Welcome back to those who are not in the room.

00:15

If we move on then from the public benefits,

00:20

can I ask then come to the applicant with regard to the private loss,

00:27

you've made reference to the statement of reasons, but in in how private loss has been assessed, is it fair to say that it is the environmental statement and the assessment within that that is the assessment of private loss that's been carried out. Or is there another specific document that you could refer to that deals with that specifically?

00:54

I think it is principally the environmental statement, which

01:00

is the

01:02

relevant document. But I say principally,

01:07

I've come back to you if there's,

01:10

there are other documents which impinge on that. But rather than give you a list, now, I think I'll come back to you on that. But certainly the ES is a staff is this starting point?

01:25

Okay? So I think it would be helpful then, for those affected persons where agreement has not been reached

01:32

for their land to be acquired voluntarily, if you could provide either the ES document and paragraph reference where private loss relevant to their situation has been assessed, and submit that to the next deadline.

01:50

Thank you.

01:54

I'm now going to come on to the question of engagement with affected parties, and

02:05

the consultation with landowners with a view to minimizing private loss.

02:12

The statement of reasons states that the applicant has actively engaged with landowners and those with an interest in land through formal consultation process, but also through informal engagement as proposals have evolved.

02:25

Can you provide examples where that's resulted in a change to proposal to minimize that private loss that would be suffered where possible? And I appreciate we've talked about changes that you've made earlier, but I'm asking specifically about how it's How you've addressed the private loss that may result
You

03:19

James casmo for the applicant, referring back to plot 16 over 5b house in the tree where the consultation has led to the downgrading of the plot to temporary possession. An example, there would be a reduction on the flexibility that that property owner would have for their site in the future and any changes they may wish to make, and any impact that will have on the value of the property. There

03:49

are obviously more than one affected party, though. So are there other examples that you can refer to as where that private losses has been reduced as a consequence of changes that you've made and the negotiations you've been having.

04:04

There'll be other examples that we can prepare and come back to with deadline for so Okay, well, I look forward to seeing that. Thank you. Can I then open that to the affected parties? If I can start with you, Mr. Hadley, about whether you have anything you would wish to raise in respect of either the engagement that's been undertaken or

04:29

consideration of private loss, as you see it.

04:35

Neil Hadley, if I could take that in two parts, sir,

04:39

I question why half an acre of land taking my land is required for a possible traffic light or signage?

04:52

I'm talking specifically about the engagement in the process, rather than the quantum of land, but in terms of the.

05:00

Discussions you've been having, the negotiations. Are there any issues of concern that you have about about that process, and whether you you know so on?

05:11

Yes, there are. So

05:15

we received heads of terms from the council's agent on the 13th of May, and we replied on the 21st of May,

05:23

the terms that we were presented with were very Council friendly, really do not provide any benefit to me.

05:31

The option period of five years and six months

05:36

are a long time for the TCO process, and ties up the property for this long period,

05:45

the council wants to enter the the property for survey purposes, rather than using the statutory procedure,

05:56

the consideration for the acquisition of the permanent land is not a sum in their offer. It is stated to be market value in accordance with compensation code, and this is not an offer.

06:11

The heads of term require me to agree not to make any representations regarding the DCO and not to do anything that may obstruct its project progress.

06:23

In summary, the heads of turns propose to take my rights to make representations and give the council everything it wants.

06:34

In my opinion, this clearly does not constitute a genuine attempt to reach an agreement.

06:42

However, we did receive further offer on the 29th of July with a derisory sum cannot be considered fully as the applicant's agent refers to betterment. But so far, the agents have not been able to explain what this might be

07:02

we question whether such a low offer at this Stage constitutes a genuine attempt to acquire by agreement. You

07:24

Thank you. Mr. Hadley, Mr. Wakefield,

07:28

thank you. Okay. My name is Stephen Wakefield, and my mother and I own the property and land,

07:35

which is one of the properties required of part of the m5 junction 10 scheme. For over three years, we have been willing and trying to reach a fair settlement with a mistaken belief that this would be achieved by engaged negotiation with fairness and equality, as per government guidelines and laws. However, this has failed to occur.

07:55

Carter Jonas have stated it is their duty to acquire property at best value, as their contract is for a fixed fee of 600,000 pounds. The only value that could be possibly altered to achieve this would be at cost to affected parties. There is no other interpretation of that statement.

08:14

My concerns about that statement to acquire property at best value is supported by an extract of a meeting between Carter Jonas and Holmes, England, where they stated that the duty to pay compensation can be under pressure to not pay the right amount when referring to home loss payment negotiations. I put this forward in my written submissions, which was met with the following response, the applicant cannot comment specifically on the statement made without knowing a specific quote or context which it has been made. Now, my understanding of the rules of submission is you are not permitted to provide internet links, and as the comment is made in an official homes England, video, I currently have no way of providing this information other than a link, and I suspect it will be removed very quickly. Because of this, I've lost all faith in Gloucester County Council in Carter. Jonas. Babe, honestly, so I've downloaded a copy of the video. I am happy to make this copy available. Should I be given the means to do so? And welcome hearing their resulting comments.

09:13

Those are two documented examples displaying the intent to obtain property and fair prices. And I am confident there are many more unwritten and unrecorded communications than not available to the public, which are much more focused and determined. But of course, this could never be proven and always be denied.

09:32

However, Carter Jonas actions speak louder than words, and these have been documented from the outset, Carter Jonas has endeavored to obtain properties at best value for their client by avoiding negotiation and making Take it or leave it offers. Should you reject the offer and provide evidence of their rent evaluation, Carter Jonas will dismiss this and break communication for up to 10 months. Despite repeated efforts to engage with them, they will continually refuse to do so.

10:00

Now I do not consider this constructive engagement or fair negotiations. A neighbor questioned why Carter Jonas was returning to value his property. Their reply was, I have come here to devalue your house. I have no reason to believe my labor was lying.

10:17

Carter Jonas have also downgraded an offer made to me eight months previously, by 20,000 pound only to simultaneously offer an increase of 25,000 pound all in the same letter to imply the increase was greater than the 5000 pounds it actually was. But in reality, during that period, the rise in house price index meant it was, in effect, a reduced offer and then devalued our property. Further still,

10:44

Councilor Jonas have questioned chicksbury Council on the legality of a mobile home situated on my property for my mother's residential use as a granny annex permissions for its location and use was applied for and granted. The decision to grant a certificate of lawfulness for this purpose is published on Shakespeare borough Council's website.

11:06

Shakespeare Council are now attempted to rescind on that decision to grant a certificate of lawfulness from my mother's mobile home, despite its continual use for over four years, attempts to gain a copy of certificate from Shakespeare Borough Council by request have been blocked, along with an official complaint raised to obtain a copy. However, that complaint has also been ignored as the response should have arrived by today, and it has not

11:31

during the submission of the complaint, chicksbury, Bucha council took an unusual step of telephoning me with a promise they would grant a certificate if I retract the decided and positive application and resubmit another application, my legal and professional advice is not to take that action as Trixie rare council would then have the opportunity to refuse, and then I would have nothing more than a verbal

promise, which, of course, could be denied. This action by Chiro Council is also frustrating the progress to settlement and supports Carter Jonas in their efforts to reduce fair compensation.

12:10

Meanwhile, over the past three years, the crime in our little cul de sac of just a few houses has gone from zero to continual break ins and vandalisms of all the vacant and bordered up properties, the Council have neglected properties and reduced grass maintenance to an annual event, which consists of a brief yet ineffective visit with a Bucha on a few of the properties, yet allowing vegetation from properties to overgrow and make pathways inaccessible. I often see my neighbor wife having to push a baby in a pram with a seven year old and a four year old in the road because of this,

12:42

despite the security patrols, which can only really report the issues we experience, issues such as squatters, vandalism, break ins, stolen vehicle abandonments, fly tipping and drug use, with other sordid activities, and people who use the area as a toilet for all bodily functions, these things happen on a daily basis, and just this week, another stolen vehicle was recovered from outside the neighboring property. My neighbor and I clean up the remains of these activities and maintain the overgrown areas as best we can in attempt to keep the area respectable. As we still live there, even Royal Mail have removed our post box for fear of vandalism.

13:23

Glossary, county council have allowed the storage of hundreds of tons of cow manure on acquired land in our road, and have also allowed logging activities, which causes wheelbarrows loads of wood, bark and branches to be scattered over the road and pavement each time they load the lorries. This causes a danger to cyclists and vehicles

13:42

living in withridge Gardens has now become extremely unpleasant, while Gloucester County Council and Cartage on us happily leave us to consider their offer.

13:51

Nothing like this has ever happened before and only serves to apply pressure to take what offer is available.

13:57

Other residents have already succumbed to the pressure to escape these encouraged illegal activities and accepted offers that they now regret.

14:12

Yet has urged me to speak here today. She is now scared of the once peaceful neighborhood we once held so dearly, and is terrified when my partner and I are not present. She's become tearful and wants to get out as soon as possible. I hold glossary county council and Carter Jonas entirely responsible for this,

14:33

and per distress with needless delays and neglect to us, our neighbors and our property. It is clear the glossary county council and Carter Jonas care only about the bottom line and show contempt to fairness and people's well being, and have little to no regard for the laws and processes, which have been for the most part ignored.

14:53

My previous land agent, who is a senior director at CBRE, has continually been frustrated by the process, and I'm going.

15:00

Occasions related concerns to me on the unprofessional approach by Carter Jonas.

15:06

On the advice of my solicitor, I have now changed to a new land agent who has had success with Carter Jonas and their latest change of appointment, but Carter Jonas are delaying final payment to my previous land agent who has requested final settlement, but Carter Jonas did not even reply, result in him withholding the files and information, frustrating progress to a resolution. It appears that Rick's members don't trust Carter Jonas.

15:33

Obviously, the public have no insight into dealings, meetings and calls that happen behind closed doors, but the actions of glossary county council, chicks V Borough Council and Carter Jonas strongly suggest a lack of integrity, honesty and a willingness to avoid complying with the law and processes to reduce their own costs at the expense of affected parties.

15:55

It is noteworthy that the first serious attempt at settlement in over three years occurred only a few weeks ago during the planning and Inspectorate examination stage, with an offer about 50% above their initial offer. I'm sure you can all see how shockingly low their initial offer was.

16:14

Unfortunately, this offer is lacking essential details on how this figure was derived. My solicitor has requested engagement to clarify these details, yet is still awaiting a response. Since their request was made on the 26th of July,

16:29

to sum up, we've had our trust in the process broken, and feel the guidelines and laws have been abused. There have been no attempts to achieve equality and no meaningful engagement in negotiations and no consideration.

16:44

There's been avoidable pressure to accept a low offer, resulting a clear effort focus to minimize compensation. Thank you.

16:55

Thank you, Mr. Wakefield,

17:02

to

17:04

then the applicant to respond to those concerns and criticisms. Thank you.

17:12

James catamo, for the applicant respond first to the points raised by Mr. Hadley, a lot of which have appeared throughout sort of relevant representations and written representations. And the response to those points, obviously, has tried to establish a number of aspects in terms of the negotiations which are ongoing. There are some aspects, I suppose, of the points raised which are not entirely accurate, in relation to the option agreement that's being proposed for three years, that the timescales in terms of making those offers are correct. Offer has been made with a consideration on the 29th of July, and in terms of the value of that offer, we would welcome a meeting with Mr. Hadley and his representative to discuss it in more detail. The point around Betterment has been raised, there is obviously a desire for that property to come forward for development, having the road improvements provided for that and assisting with it, notwithstanding sort of discussions around access, will obviously provide significant Betterment to that site in due course. And

18:24

what slightly concerns me, I think, from both affected parties who've spoken this morning that there appears to have been quite a lengthy gap between initial engagement and subsequent engagement and

18:42

bearing in mind what is being proposed in respect of potentially the loss of a property to some and their home,

18:54

I would have thought that

18:56

you'd understand the anxiety that that would create, and then the necessity and need to then keep a regular dialog going, even if it, even if it's to

19:09

update to say, we don't have anything further to say at this stage, but we will come back to you on but it doesn't sound Like that's been happening. Is that a correct understanding?

19:21

James, casimov, the applicant, there has been ongoing dialog throughout since it started in 2022

19:28

whether that's directly with the interested party or via their agent. There has been that dialog to explain, you know, aspects that are not resolvable or answerable immediately, such as in relation to the access in terms of the time frame between initial heads of terms being proposed, rough heads of terms being proposed, and the offer, you know, the intention was to give the party the opportunity to consider the terms that are being requested before then negotiating in relation to the consideration as inevitably they will have an impact on.

20:00

The value associated,

20:06

yeah, but in terms of the point I'm making about the

20:11

the need to keep that engagement open and having regular contact

20:19

was regular contact maintained, either with the individual concerned or with their agent.

20:26

James katamoff, the applicant, yes, I believe it has been. It's my opinion it has been, and we can provide further detail of the communication and the frequency as has required in writing. I think that would be helpful to understand the timeline of the meetings, the correspondence and so on, so that

20:46

we have a better understanding of what has occurred.

20:53

Okay, you obviously respond in a respect. Mr. Hadley, I think I'll leave you to the next part. James cut them off the applicant, indeed, yeah, so the points regarding continued engagement, via via the individual or the agent would apply to both, and obviously will provide those written sort of details as to how frequently that was undertaken in terms of the offer, and specifically the question mark around planning considerations. I think it's a very pertinent point when considering the value of property to understand whether all parts of it are actually consented appropriately. That's where the question mark in relation to the planning status of the sort of the annexed static Caravan has come into play with Mr. Wakefield site in particular,

21:44

in relation to the activities ongoing on land which is now owned by the applicant, specifically logging activities and muck storage. This isn't with the agreements of the applicant, and we have been we have approached the parties involved to try and have this stopped as soon as possible. Those conversations

are ongoing, and it was undertaken without any prior agreement from the applicant with respect to the fees that have been queried prior to the release of the file by the previous agent appointed. We have agreed to settle those fees. These things are happening continually as we go through the process, and we have got a meeting arranged with the new agent, which has been appointed on the 22nd of August to discuss the matter in more detail.

22:37

Okay, thank you.

22:39

I'll just come back to Mr. Wakefield and Mr. Hadley, give you an opportunity to respond further in light of what you've heard. So Mr. Hadley first. Neil Hadley,

22:53

I'm sorry, but I can't agree with what the applicant has said at all. I do appreciate that he is a new agent,

23:05

but

23:07

some of what he said I just can't agree with at all. So

23:13

as far as I'm concerned, it would be back to square one, because we've only had one heads of terms sent to us with

23:22

an amendment to that.

23:25

But here we are. We're so far down the line, and the first we were the first heads of terms we were sent were on the 13th of May.

23:36

So to say that there's been data detail negotiations

23:43

is totally wrong, so I'm sorry I just can't agree with what's been

23:50

said. Mr. Wakefield,

23:53

thank you. I'm at a position where I can't change what's happened over the past three years. I'm just looking forward to hopefully a fresh attempt to treat me and my family with some respect. And I look forward to my new land agent liaising with Carter Jonas and hopefully resolve this in a more professional manner than what I've experienced previously. So I'm looking forward to a progression, if that's possible.

24:21

No thank you. I think that's a very positive attitude. Thank you for that.

24:27

I think I would just

24:29

encourage all parties to try and engage constructively as far as you can.

24:34

It's obviously very important to ensure that you're not just meeting legal tests. But

24:42

there's a proper appreciation and understanding of the stress and anxiety that naturally results in situations like this, which I'm sure you'll understand. And so I think I would just invite that positive engagement to to move forward, at least from.

25:00

Here, so thank you.

25:17

Just then in terms of

25:21

the balance between public benefit and private loss. And again, I come to the applicant about seeking an explanation as to how you have weighted the private loss versus the weight to be applied to any public benefit, and how the conclusion that the latter would demonstrably and overwhelmingly, our way, the former has been come to have been made. So again,

25:50

invite you to comment on that question. But

25:54

equally, if you'd rather respond in writing, then, then so be it.

26:02

I think it may be better to respond in writing. We've We've obviously

26:06

sought to set out the balance in the statement of reasons. But you're looking for something a little bit fuller. I think so, because I'm what I'm looking for is that consideration of the individuals concerned in their private losses and how you've assessed those and then weighed those in the balance against the public benefits as you see them, which I think is the sort of fundamental legal test that we will need to set our mind to and understand how you've done it to reach The conclusions that you have, yes, sir. I mean, there's clearly an understanding of the individuals affected. And then there is the weighing process that has taken place, but we'll see if to make the link more explicit in writing, thank you.

26:58

Okay, then revert. Go back then to the Roman two on the agenda.

27:07

We asked questions on your commitment to the whole project in first written questions. And it seems to me, from what I've read today, that your balance of public benefit, benefit against private loss, relies upon the delivery of the whole project.

27:29

Yet,

27:31

as you've set out in the response to x first written question, 1.0 point 12 in your reply at deadline, three,

27:40

you're

27:42

not wishing to have any form of

27:46

obligation to deliver all three component parts. So I just I can understand what you've said in terms of the

27:55

legal

28:00

challenge to having a requirement that seeks to impose that on you, but it does seem to me to go to the heart of the balancing exercise that needs to be undertaken if there isn't that commitment to the whole

28:17

so I Just seek your views on that, please.

28:22

So as you indicated, is it is the legal position that has informed our our response and the cross reference of advice note 15 to

28:35

the PPG at paragraph five, and in particular, the reference to

28:44

difficulties of enforcement due to the range of external factors that can influence a decision at some unknown point for some unknown reason. And so it isn't as you indicate that there's any intention not

28:59

you correctly identify that our project is a unitary exercise, and it's intended as a whole to meet the need, and that is the proposal. It's just that

29:14

there isn't a mechanism that is appropriate to secure that at this stage because of the advice that is

29:21

that is given so and

29:28

therefore the requirements from

29:33

case law,

29:35

as expressed in advice, note 15, as to enforceability and

29:42

is

29:44

clearly pertinent, because that is

29:48

found in that finds its way into the PPG at paragraph five,

29:57

so two follow up questions that spring to mind.

35:00

Going to then take us on to Agenda Item number three, which is something we've already touched on this week, but whether there is a reasonable prospect of the requisite funds becoming available, and

clearly that's a specific test for compulsory acquisition, and the compulsory acquisition guidance at paragraph nine states that an applicant should be able to demonstrate that there is a reasonable prospect of the requisite funds for acquisition becoming available, and you've obviously provided a written answer to one of our written questions in that regard.

35:37

So just in terms of the resource implications of both acquiring the land and implementing the project for which the land is required.

35:48

Can I just take you back to the response you gave to question 5.07

35:55

which is in rep 3043,

36:00

can you just clarify for me when the funding statement was prepared? I think it was July 2023 but I just want to get that confirmation. I

36:26

so it's

36:28

certainly published in December,

36:34

2023

36:39

on its face. But whether it was prepared earlier, I need to

36:48

see if anyone

36:50

knows.

36:56

Chris BT, for the applicant, the information pertaining to the cost of the scheme and the like was finalized in June 23

37:07

I'll just have to refer back to the document itself to see

37:11

there were further amendments before the resubmission.

37:15

Okay, so,

37:17

all right. Well, I think if you can confirm to me

37:21

the correct date that would be helpful,

37:24

I think, certainly Annex A, Appendix A,

37:29

which refers to an anticipated determination of one of the applications in November 23 suggests That at least that document

37:38

emerged earlier than December 23

37:43

but we'll check on the position. Thank you. So

37:49

your response set out, as I've referred to a question five or seven said, in terms of current market conditions, the applicant has not updated the scheme costs in terms of the revised estimates for the quantity and cost of materials and labor to deliver the scheme.

38:08

This is a requirement of the ECI contractor. Can you just clarify for me what the ECI contractor is? Is that early contractor involvement, that's what it's done for. So just explain to me what that means in English.

38:27

Essentially, the intelligence feeding into our cost estimating has historically been with our consultant supply chain

38:36

that led into the production of the funding statement in June 2023

38:41

that consultant continues to, amongst other things, monitor spend progress of the works and inflation. However, the intelligence in respect of the delivery stage of the contract is increased, increasingly going to be within increasingly be reliant upon work done by the ECI contractor,

39:03

albeit our consultant will be there to verify the work produced by that contractor.

39:11

So the contractor has specifically been bought on board to look at how the scheme will be delivered, to engage with supply chain and to develop the intelligence around agreeing, ultimately a target cost, which will become the basis of the stage two works.

39:30

Okay, so that takes me on to my

39:34

supplementary in your response went on to say, the ECI contractor will update the cost of the scheme, the scheme, target cost for the engineering construction

39:47

contract stage two. So what's meant by the scheme, target cost,

39:57

SPC for the applicant, the term.

40:00

Target cost is a contractual term under the NEC CC suite of contract documents. Specifically, stage two is envisaged as an option C contract, which is a target cost contract. Under that mechanism, a target cost is agreed, and then actual costs are monitored with a incentivization to deliver below the target.

40:27

So it's a contractual mechanism.

40:31

Okay, thank you. And and so

40:37

final point in terms of the answer that you provide, it says you went and so which would reflect the market conditions at the point in time that this is done, the applicant expects the contractors proposals for stage two to be submitted in May 2025

40:51

is that still the case?

40:55

They have Chris Beatty for the applicant, there have been some minor amendments to that. So we're working to receive a series of updates leading into a likely final target cost slightly later than May 2025 now,

41:09

okay,

41:10

so what's the new date that you're hoping to

41:16

conclude those conversations?

41:20

Chris BT for the applicant, it's at or around September or October 2025. Is currently being discussed with our contractor.

41:35

Okay,

41:37

but that's yet to be finalized.

41:41

Specifically, the contract has the flexibility to commence stage two with residual detailed design in place or still required.

41:52

There is an option for us to allow detailed design to be fully complete before we enter stage two, and that's the point that's being discussed currently.

42:00

Okay, thank you. And so when you conclude your end,

42:08

the answer that you gave us, it says,

42:13

subject to this being achievable within the identified scheme budget, this would result in an award of the contract. So that leaves me with the inevitable question, what happens if it isn't within the identified scheme budget?

42:29

Chris, PT, for the applicant, again, this is perhaps referring to a contractual a standard contractual mechanism and target cost arrangement,

42:39

specifically secondary option X 22

42:43

which enables the client to set an expectation of budget and to demonstrate to the contractor the available budget, and it incentivizes the contractor, therefore, to

42:57

refine the design and deliver a project For within the available budget. In the event that the contractor isn't able to do that, there is then no mechanism to go on and proceed to stage two, in effect, and then in practice, what would happen under that circumstance is that the client would have the option to review the available budget, have discussions regarding the available funding, and make a decision as to whether to increase the budget available to allow the notice to proceed to trigger. So it's

43:33

it's a way of providing the client

43:37

and the supply chain and understanding of

43:42

funding available for the scheme, and ultimately, what we're trying to get to in terms of achieving a stage two contract. So they're standard options and clauses within the engineering and construction contracts, suite of documents.

44:02

So the figures that we've been talking about earlier in the week and that are within the funding statement, of

44:11

the total cost of the scheme and the availability of funding, both from homes England and

44:19

section 106 i Six,

44:23

it's not, you don't just that isn't the budget that you're talking about. Is a separate thing. Is that right? Or have I

44:33

Chris Beatty for the applicant? There is alignment, but there will be slightly different definitions, for instance, in respect of sunk costs. So our funding statement will refer to the scheme in its totality. The X 22 budget being discussed with the contractor will have a slightly different definition.

44:55

Okay? Do.

45:00

So

45:01

the scheme budget that

45:04

is in table one of the funding statement, which is app 036 saying that's 293 point 2 million.

45:13

Does

45:15

that that figure remains the same as of today?

45:21

Chris, P t for the applicant. Yes, it does okay. And

45:27

in terms of the work that's been undertaken so far, there's confidence that the proposed development would remain within that identified scheme budget.

45:37

Yes, there is okay. Thank you. I

45:44

so

45:46

taking that through, then

45:49

we don't have any

45:52

distinction between what the funding statement set out in the budget and the

46:01

the funding stream that is coming through and how one delivers the other.

46:09

You've got a budget for the project and you've got funding to deliver that. So at the moment, I think what you're saying to me that nothing's changed as of today?

46:22

Yes, that's correct.

46:27

And

46:31

you also confirmed, I think, in written responses, that there hasn't been an update to the customer estimates have undertaken the project since that initial assessment.

46:40

Is there likely to be any further update before the close of the examination?

46:48

Risk BT for the applicant, we continue to monitor our risk budget on a so risk reviews happen monthly and are quantified through a qcra process quarterly, so that aspect is continually monitored, and month by month, progress in terms of actual spend continues to be monitored. We've also recently been reviewing inflation, and that is showing a stable outlook with no worsening or deterioration of the situation that materially affects the funding statement, so we don't anticipate there being a change.

47:27

Okay, thank you. Now, earlier in the week, when we were talking about funding more generally,

47:36

one of the concerns that national highways identified was sort of referring back to their relevant representation.

47:44

RR, 026,

47:46

paragraph, 1.4 B, I think it was that they didn't consider the estimates were robust. And there's obviously,

47:54

I think, was agreed that conversations would be had between the two of you to understand the what was being included and what wasn't, and the various

48:08

differences between you so that you could both understand

48:13

whether there was a discrepancy or whether national highways Were

48:18

remained doubtful of whether it was a correct assessment, or whether they could be assured that it was reliable. Is that a fair summary? Now, what I'm mindful of is that when we had the discussion earlier in the week, there was obviously some reticence of what you could share in a public forum, but I think we need to be

48:44

confident that if there are concerns, that that evidence is explained to us in detail. Now it may well be that the conversations that you have in due course, you will be able to confirm to us that things are okay. But if they're not, we're going to need to understand why you are of the view that that position remains of concern, if that is the situation.

49:11

Thank you, sir. Sophie Stewart for national highways and that that's correct, and that's understood, we will be able to come back to you in writing, obviously, for deadline for hopefully some conversations will have gone ahead to narrow the gap between us in the meantime, however, can I just say it may very well be that some of the evidence we need to put in in writing will need to remain in confidence, because it will contain some

49:37

commercially sensitive information

49:42

we will, we will try to limit that as far as possible.

49:48

I don't know the answer to that at the moment, because it seems to me that

49:55

the evidence we receive needs to be open to public for.

50:00

Transparent, see. So

50:05

I might need to get further advice as to exactly what that situation might be, and you may need to seek advice at your end as well,

50:16

because my

50:18

normal assumption would be that if I'm going to consider it, my colleague is going to consider it, it should be there for everyone

50:27

to see. So that would be my starting point.

50:32

So

50:34

I might be wrong in that, but that would be my starting point. So I think

50:42

I would ask you to seek advice on that and then see what you can present confidently and see where that takes us.

50:53

Thank you.

51:01

Okay, so I'll just again, come to the room to see if there are any further points that people would wish to raise on on that particular topic. Item,

51:09

no, anyone who's virtually

51:15

Okay. Thank you. So does the applicant have any final comment on, on, any further points that they would wish to raise before we move on.

51:25

So not under a thank you. Thank you.

51:33

Again. We had quite a lot of lengthy discussions earlier in the week about the

51:40

good degree of confidence or certainty that the funding would be in place for the whole project, and the timing of that funding relative to when the project

51:51

would need to commence,

51:59

in light of the specific tests within compulsory acquisition

52:04

is there anything further that you would

52:08

wish to say at this stage, knowing that we're going to get some further written submissions from earlier in the week, but I'm just thinking very specifically About the compulsory acquisition tests.

52:22

Thank you, sir. Andrew Tate, for the applicant, just briefly,

52:26

so far as the acquisition tests are concerned, a

52:35

reasonable prospect of requisite funds for acquisition becoming available in paragraph nine of the guidance and paragraph 18,

52:49

adequate funding is likely to be available to enable the compulsory acquisition within the statutory period.

52:56

So far as that aspect is concerned,

53:01

those tests are met, having regard to the property costs, the acquisition costs identified in the funding statement of 24 point 5 million, some of which has already been incurred through the voluntary process,

53:19

relative to the funds that are

53:23

available from homes England at 313, of the funding statement, 212

53:32

million. And so that acquisition process is

53:35

has occurred. In part it is underway and is

53:41

and rather sorry it continues.

53:44

And so in relation to the specific tests in paragraph nine of reasonable prospect and 18 of likely to be available, specific to the enable the acquisition to occur by avoiding blight. Those tests, the funding is available amply to cover that.

54:09

The separate point in 17, paragraph 17 is to provide as much information as possible about the resource implications of acquiring the land. That's the same point and implementing the project for which the land is required, and

54:28

the applicant should provide an indication of how any potential shortfalls are intended to be met. So that certainly isn't a certainty test.

54:38

It's not technically reading the guidance a reasonable prospect test, but certainly any indication that we give, one would expect it to be a realistic indication, and that's the

54:54

position that the funding statement sets out. So I wasn't going to.

55:00

Go rehearse the point about section 106 contributions, because you you know you've raised that, and we're going to come back to you on that subject to some of the more specific points you raise. I appreciate about the applications coming forward, but the funding statement, which refers to the section 106

55:19

process, looking at the gap,

55:23

can be augmented to an extent, because, since it was produced in December, at a time when the CIL list produced by the Councils excluded the MFI junction 10 scheme, that exclusion has now been removed, so one needs to

55:49

have regard to that when one is looking At

55:54

an indication of the potential source of funds

56:01

for what, what were for the short for the shortfall or gap, however one describes

56:08

that, as I say, we've

56:12

referred that the knee case and the severity point, and we entirely appreciate the point that it's not for these hearings to be undertaking a detailed assessment of the individual

56:30

developments that are coming forward

56:33

and

56:35

the extent to which dead weight is a portion between them and so on, but it is

56:42

not unreasonable to conclude, in the light of the body of evidence as to the need and the severity of impact without meeting that need,

56:53

that it is reasonable to expect

56:56

that section 106 agreements is a reasonable source

57:03

for

57:05

seeking to address that gap. And in connection with that, there are the

57:13

the

57:15

the letters, what are called the letters of a principal support rep, 362,

57:21

which in the case of the

57:25

leading landowners, and I'll ask,

57:30

in due course, just an explanation of where we are With the various applications

57:38

that

57:40

a number of those,

57:43

including in relation to the safeguarded land and laws,

57:49

do not object to the funding methodology or to the principle of a contribution that, of course, is something that is being developed as as we've already explained, on a collaborative basis

58:04

after these hearings, and that process with the local authority, the joint councils and others, is intended to

58:13

continue, but

58:16

the funding statement is only required to give that

58:20

indication.

58:22

And as I've indicated, that needs to be supplemented with a further indication as to, or rather supplementing the

58:32

the information to which provides that indication in having a regard to CIL so we will provide a note which brings that together. But that is an update I thought I ought to

58:44

bring to your attention at this at this point,

58:52

conscious that

58:54

The contributions strategy is under development still.

59:02

Yes, I think in one of the written responses, I think it was from the joint councils, There was

59:10

reference to the

59:12

committee being formed between the councils to look at SIL more broadly. Is this the first decision following up on from that, or is it? Is it a separate issue? This has been resolved

59:26

in another way. So there's a SIL joint committee,

59:32

Joint Council, sil committee, Infrastructure Committee. It's actually called so Tewkesbury and Cheltenham. First sitting will be in late September, after the new policy, there's three pages of the policy has been formed. There's three pages of infrastructure on the list, and they'll literally put it set out in bullet point form. My Learning friend is correct in that the m5 wallet junction 10 was excluded in the previous iteration and has now.

1:00:00

Been included as one of the infrastructure to be included the Joint Council is intended deadline for to in order to assist the panel to actually attach a copy of the policy to our submission so you can actually see for yourselves.

1:00:17

Thank you. Has that gone through its entire process to formal adoption by the council. Yes, it has. It's been through because it needs to go through Tewkesbury and Cheltenham Borough Councils

1:00:29

in Gloucestershire and it has though Gloucester, Gloucestershire city Oh, Gloucester and Gloucestershire City Council. The county council isn't a sole authority, but all three councils have signed up,

1:00:43

yeah, and their first meeting will be, I think, late September or early October, but I will actually give you the date And my in our written representations. Okay, thank you. Applause.

1:01:13

I think

1:01:17

the only other question then this

1:01:20

is obviously new information that I'm just trying to absorb.

1:01:25

But one of the other questions I had at the back of my mind,

1:01:31

in light of some of what we heard earlier in the week,

1:01:35

with regard to how much we could have regard to section 106 funding,

1:01:42

Are there alternative streams of money or funding that

1:01:49

Euro are available to you that would

1:01:52

be

1:01:55

give greater certainty that the whole sum is going to be available

1:02:02

in due course at an appropriate time.

1:02:12

Chris BT, for the applicant, other than CIL, the only point I'd draw your attention to is the potential for delivery in kind. Are there relevant developments in lieu of funding.

1:02:25

Sorry, what do you mean by that?

1:02:28

A section 106, obligation to deliver part of the scheme.

1:02:37

I think that relates, in particular, to the blow scheme, where there's a degree of overlap between their mitigation and what is proposed as part of the scheme, so not seeking to double up do the same thing twice in a slightly different way, I think, is, is the Matter potentially under discussion with laws?

1:02:58

Okay? Thank you. Applause.

1:03:09

And then come to national highways,

1:03:12

whether

1:03:15

what you've heard this morning gives you any greater assurance on the funding side, or do you still remain of

1:03:21

the view that you expressed earlier in the week,

1:03:26

or again, is it something that you'd wish to review upon receipt of this further information?

1:03:36

Thank you, sir. Sophie Stewart for national highways, I believe we broadly remain of the view

1:03:42

that what we've heard this morning doesn't change our position dramatically. The CIL point is is new to us as well, and something we will take away and look at. And obviously we've committed to having further discussions with the applicant

1:03:58

to try and narrow the gap, but our position for today largely remains as already stated. Okay, thank you.

1:04:08

And again, I come to the joint councils because earlier in the week, you expressed

1:04:17

a need for us to reflect that it was the joint councils as planning authority, who would be determining the planning applications and deciding what section 106 monies would contribute towards,

1:04:30

and there are more than just highway issues that they need to cover.

1:04:35

So is there anything further you would wish to add at this stage, in light of the

1:04:41

addition of SIL now into the into the port, as it were,

1:04:47

so, no there is the council's position remains that site viability is a matter for the district councils to look at in their determination the planning applications, and it's important.

1:05:00

Important that the m5 junction 10, any funds don't skew that viability, so that other infrastructure, such as education and affordable housing is unable to be brought forward. In respect of the CIL the policy, very helpfully, has at the bottom as a public record the funds that are available and what and actually, as I say, outlines, three pages of items that are seeking to compete for those funds. And look, we will actually attach that. So I think that will assist you further. Do you have any further questions of me on this issue?

1:05:34

I think my only question really is,

1:05:38

I need some guidance on how the

1:05:43

two funding mechanisms will work together,

1:05:48

between between CIL and 106 to either give us greater assurance that

1:05:55

funding is going to be available on or not as the case may be. I don't know whether that's possible, but it's just, I can see, I can set out the statutory requirements the section 106 funds have linked to the development in summary, whereas the CIL, as we know, is a wider infrastructure,

1:06:13

the

1:06:15

any works which are linked to the development and and directly related To the development will be sought through the section 106, funds, is my understanding. Unfortunately, the planners were here on

Tuesday, but they could not be available today, so I can make them available for you at another hearing, and they will feed into the response the soul as it is competing it's for the wider infrastructure. And there's a list of three pages I will try and get more definite understanding for you and provide that in a written response.

1:06:46

I think that would be helpful because, because, fundamentally, we don't want to get involved with the intricacies of the individual applications, but what we're trying to understand is the much broader picture about,

1:06:59

I suppose, what the total funding is that might be available relative to the cost of the project, and what certainty we can have that

1:07:09

that is going to facilitate the project going ahead in a timely manner. And that's the

1:07:17

the nutty question as it were, that we need the answer to so

1:07:23

I look for each of you to aid as an understanding of that. Certainly, the officers have actually set out some schedules with the applications. They did need to drill into the individual applications, as you can probably understand, to actually get an idea of what was going to be brought forward. They're very nervous about predetermination of applications, and I can understand their predicament entirely and provide legal advice to them on exactly that they are unable to do so. So it is a difficult situation, we will try and find a broad, something broad, to provide to you based on the detail that the planners have actually taken the time to undertake.

1:08:03

Thank you.

1:08:17

Can I then come on to the some of the things that national highways have said about funding

1:08:24

in I think it's item 34 of the of the pads you've expressed expressed concern with regard to funding. So can I just take you through the stages that you you've put in, that

1:08:40

you've said that you think the funding scheme is insufficient

1:08:44

and that the identified funding gap will not be adequately met by developer contributions.

1:08:50

Is there any more you can add to that as to why you think that to be the case?

1:09:00

Thank you, sir. Sophie Stewart for national highways as set out on Tuesday, I think it was national highways are concerned. There are some cost lines heads of cost that aren't immediately apparent in the applicant's

1:09:20

cost estimate that national highways would ordinarily cost for. And we we cited the particular examples of bng and carbon, which I know the applicant responded to say were in there. And this gave rise to the point of, we'll, we'll go away and have further discussions to try and try and identify

1:09:41

where we where national highways think things are missing, and the applicant is saying that they're embedded in in various lines, and obviously, just as a mathematical consequence, in relation to inflation, if you're if your base cost level starts from a different position, then inflation.

1:10:00

Nation will have a different outcome as well.

1:10:03

Okay. Well, thank you.

1:10:07

You then say secondly that you have concerns about the poly policy position required to secure the contributions, and even where secured the significant reliance on those contributions coming forward within the time scales

1:10:25

for when funding is required. So again, I seek clarification for you on both aspects on that please.

1:10:33

Thank you, sir. Sophie Stewart, for national highways, the concern with regards to the police policy position is that the developer contribution

1:10:43

policy the SPD is not yet in place and is still being developed.

1:10:49

So whether there is an underlying policy hook to require the contributions, obviously, now feeding in, we've heard that there will be some coming from CIL

1:10:59

this morning, and the second point goes to even if section 106 agreements are completed with developers, they will have triggers in

1:11:11

that presumably will relate to percentage occupancy of housing or other matters, and that even once the agreement is completed, there is no guarantee that those triggers will be met, garnering payment under

1:11:26

the agreements that have been put in place,

1:11:31

and that on the applicant's own website, in their infrastructure funding statement, they make the statement that where section 106 agreements are collected, they don't spend the money until all of the installments have been paid over and obviously with large scale residential development sites that are going to be delivered over potentially 1015, 20 years.

1:11:57

That could be a long time before all those monies are received.

1:12:03

So the policy, the policy position reference that you make is not a concern that the

1:12:11

JCS, inf seven policy doesn't do what the applicant is saying. It's more to do with the ongoing discussions about the method of calculation of quantities of money relative to each particular scheme and that,

1:12:32

as you describe it, supplementary planning document. But I haven't heard it called that before today, so, but yeah,

1:12:40

thank you, sir. Sophie Stewart for national highways, I'll take away and confirm with our spatial planners. My understanding is we're neutral on what JCS inf seven does or doesn't do, because that's for the applicant and the planning authorities to interpret planning policy. But I can, I will

1:13:02

confirm that.

1:13:05

Okay, that's helpful.

1:13:09

I suppose that the

1:13:14

because the name of it escaping me at the moment, the funding methodology is that that is being considered and has been out for consultation. Is it intended that that would be supplementary planning document, or is it something else,

1:13:36

better night for the joint councils? So if I'm a little confused, I'll be honest, I tend to be if you're referring to the section 106, methodology that was discussed on Tuesday. My understanding, and again, I'm sorry the planners aren't here, is that that is a document between the county council and their role as promoter and and county council and the district councils as to how the viability of the sites are going to be worked up and the allocation of the funds. That's only my understanding. I would need to confirm that it's not a supplementary planning planning document at all. I may be taking the wrong stick. I might be wrong and not actually be on the right page, but that is not a supplementary planning document. It's my understanding at the moment. No should be one, though the national highways are correct. We can take a look at that and report on that.

1:14:28

Okay, thank you so I just come to the applicant then to

1:14:32

get your understanding of the status of the document and and so on. Thank you

1:14:40

so, Andrew Tate, for the applicant, we hadn't necessarily envisaged it would be have a formal status of SPD, as I think I indicated on Tuesday, we saw it as really a document underpinning the application of iron inf seven,

1:14:56

but on on a basis that can be commonly applied.

1:15:00

Iron.

1:15:01

So it's a tool to support the application of inf seven. It's not say it couldn't be an SPD, but

1:15:09

when we hadn't necessarily envisaged it, it would have that status.

1:15:14

No, okay,

1:15:15

sorry, so sorry. Can I just add that if it is to be a supplementary planning document, then it would need to go through cabinet and be used for more approval. Need to go to all the earned virtual Council cabinets, so I would be surprised.

1:15:30

That helps. No, I mean, from what had been said so far, I my understanding hadn't been that it was going to be a supplementary planning document, and therefore have that sort of status within the planning policy framework. But it was a

1:15:49

method which hopefully would set out an agreed approach as to how funding might be

1:15:58

calculated, recognizing that different schemes would have different effects and and so on, so that there would be a

1:16:09

fair methodology for all developers.

1:16:14

I think that's broadly where it was heading out if I think,

1:16:20

yes, sir,

1:16:27

Mr. Garvey, I noticed you've joined us. So welcome.

1:16:32

Thank you very much. Thank you very much, sirs, from our perspective, killing Garvey, speaking on behalf of Bloor and persimmon Holmes, from our perspective, this document, as I indicated on Tuesday, has no status. Well, it we invite you to afford negligible weight to it on the basis that

1:16:56

it is simply an aspiration from the applicant as to what money they want,

1:17:03

but there is no agreement at all as to what my client or others might be willing to pay towards it. I hope that's clear.

1:17:18

I understand your position. Mr. Garvey, thank you. It's helpful to have that discussion in in the open, to hear what the

1:17:26

council the applicant sees the purpose of it, or be well aware that your clients and yourself don't agree with it and are inviting us not to give it any weight in our decisioning, decision or recommendation. You

1:17:49

moving back then to national highways, comments you say further that you've not seen the homes England grant funding offer and therefore cannot rely on it to provide any assurance regarding secured funding. So

1:18:08

why is it necessary for national highways to see it? Is it not sufficient that it's a grant being awarded by a government

1:18:16

agency,

1:18:18

and the alternative is, could it be shared if that were to resolve this anxiety? So come to national highways in the first instance. Thank you, sir. Sophie Stewart, for national highways, it has been shared

1:18:32

since that submission was written. Okay, so and having it been shared, what's your position now? I

1:18:46

Well, so thank you, sir. Sophie Stuart, for national highways, it has resolved preliminary concerns around the amount and availability and timing of the homes England funding. But obviously, as stated previously, there are still concerns that the homes England and funding is acknowledged as not sufficient to deliver the whole scheme, but also that the funding gap that's been identified is still bigger in national highways opinion, than the applicants. Yeah, but, but it's put that concern to Merna, thank you. I

1:19:26

i think the final point that national highways identified was the concern about any cost overrun or supply chain increases that might arise on whether the funding or contingency built in an estimate of program program costs were realistic. So anything further that needs to be added in clarifying that for us.

1:19:50

Thank you, sir. Sophie Stuart, national highways, I don't think there's anything further to be added, and the concern still remains. We've reviewed the applicant.

1:20:00

Response to the written question in this regard, and we don't think it takes us any further at this time.

1:20:09

Okay, so is that something that, again, is part of the conversations that you're having or due to have to

1:20:18

see if there is a way forward to remove that anxiety or that concern, I would envisage it. Yes, that would be a line in the discussion.

1:20:30

Okay, so

1:20:33

I'm assuming that that's the applicant doesn't need to respond any further at that point. I

1:20:47

Okay, I think it's probably a good time to take a pause. Then

1:20:53

it's just five to one,

1:20:56

so if we adjourn until two o'clock, and then hopefully that's sufficient time for everyone to get some lunch. So again, I'll remind people on the

1:21:08

live stream that you'll need to restart your browser pages, but it's adjourned. Hearings adjourned now, and we'll resume at two o'clock. Thank you, everyone. You