



## Hearing Transcript

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| <b>Project:</b> | A46 Newark Bypass                          |
| <b>Hearing:</b> | Compulsory Acquisition (CAH) 1 – Session 1 |
| <b>Date:</b>    | 09 October 2024                            |

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

# TRANSCRIPT\_A46\_CAH1\_SESSION1\_09102 024

00:05

Good morning, ladies and gentlemen, it's 10 o'clock and time for this hearing to begin. Will we go any further? Can I just confirm that everybody can hear me clearly? Thank you. Can also confirm with the case team that the live stream and the recording event has commenced. Thank you. I'd like to welcome you all to this compulsory acquisition hearing in relation to the application made by national highways for an order to grant development consent for the a 46 Newark bypass project. My name is Kenneth stone. I am a charter town planner. I've been appointed by the Secretary of State as the lead member of the panel to examine this application, along with my colleagues Paul Burley and David love who I'll ask to introduce themselves now. Mr. Burley,

01:00

thank you. My name is Paul Burley. I'm a chartered town planner and examining inspector for nationally significant infrastructure projects with the planning Inspectorate.

01:13

Good morning. My name is David love I'm a chartered town planner with postgraduate qualifications in ecology, and I'm a practitioner member of the Institute of Environmental Management and assessment. I'm an examining inspector for nationally significant infrastructure proposals with the planning Inspectorate.

01:33

Thank you both. You will also hear us referred to as the examining authority, or XA. Our role is to examine the application and to report to the Secretary of State for Transport with the recommendation as to whether or not the development consent order should be made. The application seeks consent for a scheme that comprises online widening of the a 46 to the north of the existing route for most of its length, between found and roundabout and the a one followed by a new section of offline dual carriageway proposed between the A one and Winthorpe roundabout, where the new dual carriageway ties into the existing a 46 to the west of Winthorpe roundabout. The widening works include earthworks widening along the existing embankments and structures where the route crosses the Nottingham to Lincoln and East Coast main main railway lines, the river Trent and the A one roundabout to Farndon and Winthorpe will be enlarged and partially signalized, while the cattle market roundabout will be grade separated by elevating the a 46 access to the A One and from the a 46 will be improved by upgrading the Brownhill and friendly farmer roundabouts terms of the planning inspectorates. Case team here today, it is represented by Deborah Allen, a case manager, and by Ewan Keats, also a case manager, and they are supported today remotely online by Stephen Parker, who is a case officer, please do not hesitate to contact any member of the case team. Should you need any help with today's event or with the technology? Before I go any further, there's a couple of housekeeping matters. Can

everybody please ensure that their phone, mobile phones, devices, etc, are turned to silent. Toilets closest to the Great Hall are down to left, down the ramp and over to the left. The event of a fire, there are a number of fire exits around the hall. Please familiarize yourself with your nearest exit. The fire evacuation assembly point is near the tennis courts, right by the pavilion out on the front lawn. And to get there, you'll need to walk through the car park and pass the Business Center. For anyone with any mobility issues, there is a ramp to use. I'm not aware of any fire drills that are planned today. Uh, I'll now move on to do with a couple of preliminary matters before I move on to the substance of today's events, just in terms of the context of the nature of the event. Today is a blended event undertaken in a hybrid way, meaning some of you are present with us at the hearing venue, and some of you are joining us virtually, using Microsoft Teams, we will make sure that however you've decided to attend, you'll be given a fair opportunity to participate. If you are participating virtually and you wish to speak at any point in the proceedings, please use the raised hand function, and we will invite you to speak at the appropriate time. Alternatively, if you happy to please turn on your camera. If you are happy for your image to be seen and recorded, so that we can see that you wish to speak, hearing is being both live streamed and recorded, and the recording will be available on the. A 46 New York bypass page of the national infrastructure website shortly after this hearing, for the benefit of the recording, please, can I ask that when you do speak, you speak clearly into a microphone, stating your name, who you are representing each time that you speak if you're not at a table, I think we've got most people who have indicated and wish to speak at the table, so you should have access to a microphone. Then just make sure that you speak into that terms of GDPR, a link to the planning inspectorates privacy notice was provided in the notification for this hearing, and I assume that everybody here today has familiarized themselves with this document, which establishes how the personal data of our customers is handled in accordance with the principles set out in the data protection laws. Again, if you've got any questions, please contact the case team. Anyone who does speak at this hearing must do their best not to give any information which should be kept private and confidential, such as any health conditions or addresses or anything of that nature. If you do submit information in writing or at hearings which is considered by the planning inspector to be personal data, it will not be published or considered as part of the examination. In this vein, I would mention that if you want to tell us something about where you live today, because it's relevant to what you have to say, don't give us an address, but just give us a specific or a general location or something of that nature. In terms of the matters that we will cover today, there is an agenda. The hearing will follow. The agenda published on the infrastructure website, and that was published some time ago. I think we gave about five days notice. There's a hearing agenda there with a number of items on that matter. We're not hearing individual cases for specific affected persons as they will be dealt with at a separate hearing, or hearings, depending on the nature of those, and that will be dealt with, probably in the December set of hearings, or if necessary, if there's not sufficient time there, then the February set of hearings. The agenda that's been published is for guidance only, and we may add other considerations or issues as we progress, we will conclude the hearing as soon as all relevant contributions have been made and all questions asked and responded to. If the discussions can't be concluded, then it may be necessary for us to prioritize matters and defer other matters to written questions. Likewise, if you cannot answer the question being asked and you require time to get the information requested, then please indicate that you will need time to do that, and you will respond in writing. We plan to have a mid morning break around 1130 and hope to conclude the hearing by early afternoon, but as I say, we'll conclude it once everything has been dealt with, if that is sooner if I now move to introductions, I'm going to now to ask those of you who are

participating or indicated or wish to participate in today's hearing to introduce yourselves. Could you please introduce yourself, stating your name and any title you wish to be addressed by who you represent, and let us know in which agenda item or items you wish to speak. If you're not representing an organization, please confirm your name, summarize your interest in the land which would be affected by the proposed development, and confirm the agenda item upon which you wish to speak. I'll turn to the applicant and your advisors first. And if I could hear from the lead for the applicant and any people who will give particular contributions today,

09:17

Good morning, sir. My name is Jonathan Bauer. I'm a solicitor and partner with Womble bond Dickinson, and we're the lead legal advisors for the applicant. I'm here to principally address well all of the matters that are on the agenda. We've got a team alongside me, and if I let them introduce themselves, it may be that not everyone is needed to speak, but just so that you know who is here and what sort of principal areas they may be able to assist with.

09:47

I think if you just get those people who are most likely to contribute to introduce themselves at this point, and then if at some future point, somebody else needs to add to the. Discussion, then just get them to introduce themselves at that point. So if we just sort of limit it to those who are likely to be contributing,

10:10

Hello, I'm John bows. I'm a chartered civil engineer, and I'm the design Integration Manager. You

10:42

we'll bring you a roving mic over perhaps, and then if another colleague introduces themselves,

10:48

I'm Simon beard from the evaluation office, agency, chartered surveyor,

10:53

I'm having a bit of difficulty hearing that. Could you move a little bit closer and speak into that microphone again.

11:02

Can you hear me? Yes.

11:04

Simon beard from the valuation office agency, I'm a chartered surveyor at a number of national highways to deal with land and compensation matters on the scheme.

11:21

Good morning. Mark Sutton, project, technical director for Skanska delivery partner with national highways, the applicant looking at both the construction and temporary land.

11:32

Thank you. Applause.

11:44

Okay. Thank you. If I can now move to other organizations or individuals who have expressed a wish to attend and participate in the meeting again, could I ask you to introduce yourself and tell us if the agenda item on which you wish to speak, can I start with any local authorities who are available at Newark and Sherwood. Can I start with you?

12:07

So my name is Raj Gupta. I'm a partner and solicitor town legal representing Newark and Sherwood District Council with respect to their position as property owners affected by the compulsory acquisition and temporary possession powers included in the order. I have various representatives from the council and Lambert Smith Hampton with me, but I don't believe any of those are going to speak today, so I want trouble,

12:40

okay, well, we can introduce them at the point if they need to. Can I just confirm with you in terms of the representation that you're making to us? You've made two representations to us. One is the host authority, and one is a landowner. And the interests that may be affected by that are your representations today in terms of the land ownership issue as a an affected party, or are you as a host authority?

13:12

Thank you, sir, yes, as the landowner, affected body, compulsory acquisition provisions, and not as host authority. Thank you very much. I'm sorry I should mention item three that we will be speaking to today. Yeah,

13:36

you have anybody from the County Council today? I don't believe so just checking and online. Nope, okay, thank you. I haven't got any statutory parties or statutory undertakers who have indicated a representation to speak or a requirement to participate. Do I have any parish councils with us today. No hands up or anything virtually. Okay. So I will now turn or move to affected persons who have objected to the compulsory acquisition or temporary possession of their land or interests. I've got a number of individuals who have registered I wish to participate, and if I can ask you to briefly identify yourself and on which agenda items that you wish to speak. And would do that if I can just run through the names that I have and see if you're here online or whatever. Firstly, Mr. Townley, no, I don't have Mr. Turner, Mr. Miller. Mr. Miller,

14:56

yes. My name's John Miller, farmer from Kellum. And landowner, and I'll probably be sort of losing about 47 hectares to the project. I probably don't need to speak, but I may ask a question on Item three, depending on what I hear.

15:15

Yes. I mean, I think that's we're not in the context of an open floor hearing or an expectation where I'll expect people to make any representations to us, but it's sort of a question service for the applicant, and obviously, if there's any contribution that you wish to make, or there's some points that you wish to make at that point, and just indicate a desire to respond to some of the issues that we're talking about, and that's basically what the purpose is of today, so just let me know at any stage. Mr. Ralston, no. Mr. CAC, no, right? So Mr. Kamack, Mr. Kamack was representing the trustees of the charity of Thomas Brewer, but I see Mr. Barthof, sort of made a signal there, who is also the he's a secretary and treasurer of the charity of Thomas Brewer, but also indicated that you wish to speak on your own behalf as well, but if you can just introduce yourself.

16:30

We having difficulty with that, Mike as well. Sorry, somebody will be with you in a second. Yeah, they're having a little bit of difficulty with them at the minute.

17:00

Apologies to this. Maybe if we use the roving mic,

17:10

apologies, Mr. Barthop, we will be with you shortly. I

17:16

wonder if there's another seat Mr. Barthop could move to rather than be holding a mic, no, but if

17:23

we can find one, hello, well that's better. But if you just can, we just check if there's any of the other mics that work, and we could

17:33

Good morning. Yeah, just my name is David balzor, and as you've just said, I'm a trustee of the charity of Thomas Brewer. We own some agriculture or the trustees the charity owns some agricultural land around Winthorpe roundabout that will be affected by the project. My colleague Lee kamack could be here at any moment. We may want to speak, but having seen the detailed agenda, it may be left till one of the more detailed hearings, but we may want to ask a question around item three, like the gentleman on my right was referring to thank you.

18:18

Well, similarly, as I said to him, if during the discussion, there's something that you want to contribute to that, then feel free to do that. And if you think that your question is relevant at that stage, certainly ask the question we have the applicant here, they may well be able to answer it to you in that open forum.

18:39

And do I have a Mr. Donnelly checking online? Nope, okay. Is there anyone else here present today who may wish to speak who hasn't previously identified

19:01

or pre registered. No. Is there anybody joining us virtually today who has not pre registered or who may wish to contribute and wishes to introduce themselves? No, okay. Thank you very much. Just to reiterate the point to all of our participants today, for the purposes of the recording, it will be enormously beneficial to us if each time you speak throughout the hearing, you could state your name, and if you are representing someone who it is you represent, as I mentioned earlier, the event is being live streamed and recorded and will be available to view on the a 46 New York bypass page of the inspectorates website. Anyone watching on live stream or at a later date has the opportunity to make any comment about the matters that we cover today in writing, by deadline two, which is Tuesday the 12th of November, the. If I move to item two on the agenda, I'll make some comments about the purpose of the compulsory acquisition hearing and make some opening remarks. The application for the proposed development includes a request for an order granting development consent to authorize compulsory acquisition of land, or compulsory acquisition of an interest in or right over land, or the temporary possession of land. This hearing is to enable the examining authority to hear and prove the applicant's strategic case in respect of the powers of compulsory acquisition and/or temporary possession it is seeking. This hearing will help us to consider whether the relevant legal and policy tests applicable to compulsory acquisition and temporary possession proposals have been met. And to this end, the purpose of this hearing is to inquire into a number of factors. Firstly, the applicant's strategic case for compulsory acquisition and temporary possession of land and or rights. Secondly, whether the conditions relating to the land being required for the proposed development are required to facilitate or be incidental to the proposed development are met. And thirdly, whether there is a compelling case in the public interest for the compulsory acquisition provisions overall, I would note that there will be no judgment made in this matter pending the hearing of individual compulsory acquisition and temporary possession objections at a later date, at later hearings the for anyone who does not have a copy of the agenda to hand, I'll ask the applicant to display it on screen so that you can just see what matters we're going to cover and just quickly scroll through that so their agenda item is, One was the welcome agenda. Item two is what we're talking about the purpose. I'll then move on to agenda. Item three, which is the applicant's general case. You just scroll down.

22:14

That will take us into item four, where we'll cover off some of the matters about statutory undertakers, Item five, where we'll deal with other special category land, which includes Crown land and Commons. And then we'll have a discussion around human rights and inequalities, act general funding, and then conclude with any other matters. That's the general running order for today

22:52

in that agenda. But that was published, we also set out the documents that we may refer to. It's not appropriate to display documents that haven't previously been submitted as part of the examination. The examination. So if anybody did propose to refer to a new document, that document will need to be submitted along with any written summary of your oral submissions, so that is formally entered into the examination and other parties will have an opportunity to view and to comment on it. If during the

course of the hearing we need to refer to a document, we will use the document reference in the pins examination library. The objective of the hearing today is to develop the X A's understanding of the issues. The expectation is that we, as the x A will lead on questions that there is a provision for direct questioning by interested parties. Should that be necessary, but that is at all discretion depends on the nature of what those issues are. I would remind participants that the application for development consent orders are examined principally through the written process. However, hearings can be held to examine matters where this is helpful to the XA, there is a subject matter controlled agenda. This means that the matters for discussion today are those matters identified on the agenda. Parties with an interest in land that is affected by such compulsory acquisition are known as affected persons. All affected persons have been notified of this compulsory acquisition hearings, and they have a right to be heard in relation to any objection about the effect of a compulsory acquisition request on their interests in land, and this will be dealt with at subsequent hearings, where we will look at the actual individual cases. Today we are focusing on the strategic case. We have notified all those parties affected by the application for the proposed compulsory acquisition powers, so that they have the opportunity to comment on the applicant's overall approach. Those who have made or make a substantive objection to the use of the proposed compulsory acquisition powers, or requested to be heard to address this in individual cases, will be afforded that opportunity. So please don't get concerned. You won't be given an opportunity at some future date, at the appropriate time, I will call each of those persons who I have questions for to raise their points, and those people who have registered to speak. If once you've heard the applicant response or any issues, or you wish to raise any issues, then please raise your hands and interject into the discussion, and I'll bring you into that discussion as and when appropriate. We will be examining the application for compulsory acquisition rights in the context of the powers provided by the Planning Act 2008 and that's specifically in relation to Section 21222, and 1223, and a link to that legislation is available on the main national infrastructure planning website of the planning Inspectorate. But in brief, we will test and advise the Secretary of State on whether the land and rights that are sought are required to build or facilitate the proposed development. Whether there is a compelling case in the public interest or the land or rights to be acquired compulsorily, and what is sought is legitimate, necessary, reasonable and proportionate. We are also mindful of the advice set out in the government and its 2013 publication Planning Act, 2008 guidance related to procedures for the compulsory acquisition of land, which is also available from a link in the guidance section of the main national infrastructure planning website. Our deliberations and decisions will be guided by the relevant human rights legislation, including the European Convention on Human Rights, articles six and eight and the first protocol of Article One. Ultimately, while considering whether to recommend or allow the application for compulsory acquisition powers, respectively, both we and the Secretary of State will take great care to weigh any interference with human rights against the public interest associated with the benefits of the proposed development and ensure that any interference is considered both necessary and proportionate. It is for the applicant to demonstrate that all of the proposed compulsory acquisition powers that it seeks are justified within this framework, that all reasonable alternatives to compulsory acquisition have been explored and that there is a reasonable prospect of it having the funds available to implement any compulsory acquisition rate rights that may ultimately be granted by the Secretary of State in the time allowed within a consent order. While there is a clear and obvious link between our examination of the proposed development and our examination of the application for compulsory acquisition and temporary possession rights, the two are tested on their own merits. According to the case and whatever our ultimate recommendation to the Secretary of State, it is possible that they could



grant development consent, but not some or any of the requested compulsory acquisition or temporary possession powers. We would stress that we will form a view over the full course of the examination on each of the requests for compulsory acquisition powers and whether or not there is a compelling case in the public interest, and not just on the submissions and evidence put before us today. For the purposes of this hearing, we are assuming that the representatives for the applicant are reasonably familiar with the legislative policy and guidance framework and with that process and that the examining authority that and with the process that the examining authority and executive state will go through. For those of you less used to compulsory acquisition hearings, we should explain that we may refer to a number of documents from the application that's submitted. Those principal documents are the development consent order, the land plan, the Crown land plans, the special category land plans, the explanatory memorandum, statement of reasons, funding statement, a book of reference. So you may hear those documents referred to. They are in the examination library. And there are various examination library references, and if they are raised, we will identify those so that you can look at those at some later date. Or if you've got access at the moment, you can do that now. Together, these provide the bulk of the material relevant to the application for compulsory acquisition powers. And in preparing for this hearing, we have looked at all relevant material, including the statement of reasons and the explanatory memorandum, various chapters of the environmental statement and the applicant's funding statement. As I say, all of these are. Available in the examination library. The land plans identify all the relevant parcels of land and include a label for each cross references to the book of reference. The book of reference includes a comprehensive table that lists each parcel of land, the powers sought, and everybody that has been identified with a legal interest in it. It was the applicant's responsibility to undertake a diligent inquiry into the existence of all such affected persons in advance of making the development consent application. The statement of reasons sets out in detail why the applicant believes there is a compelling case in the public interest for it to be granted compulsory acquisition powers in the draft development consent order, and that these are necessary, proportionate and justified. Anybody can make representations on these matters, and if they wish to do so, those should be provided by deadline two, which is the 12th of November 2024 finally, may we remind you that the focus for today's hearing is explicitly on the proposed compulsory acquisition and temporary possession powers and the applicant's strategic case, and we will not be taking any submissions or evidence on any other aspects of the proposed development, including its merits or wider concerns, there will be opportunities to write or speak to us on those broader issues and aspects later in the examination, and these are set out in the timetable. If you have other issues you would wish to raise, you can address those in written submissions at the relevant deadlines or the other hearing sessions proposed in the timetable. Similarly, we cannot take evidence on the eligibility for or quantum of compensation that may be sought or awarded to any individual, affected person, or the application of the compensation code, as this is strictly outside the scope of our Terms of Reference.

32:11

To complete this

32:13

general statement, the purpose of the hearing today, may we request all affected persons who make an oral representation today, please submit a follow up written submission, or summary of their submissions by deadline, one which is Tuesday the 22nd of October. Written submission should be

based on your represent representations today rather than any new material, but they can include more detail or corroborative evidence to support your submissions. For those of you who haven't attended proceedings such as these, there is some necessary formality, and we would ask you to refrain, refrain from any interruptions. These are most unhelpful to us, potentially disruptive to those who are speaking. Before I come to the substantive agenda items and the applicant's general case. Is there anything of a more general procedural nature that anybody who's here would wish any clarity on? I

33:26

I just checked around the room, shaking heads. Nobody's looking for everything so we can move on. So if I now turn to deal with the applicant general case

33:42

and items, three, applicant's case for compulsory acquisition and temporary possession of land rights. Here we're seeking comments from the applicant on their overall case in the round, looking at the amount and extent of land sought to be subject to compulsory acquisition. Statutory tests for doing so, including the compelling case in the public interest and the consideration of alternatives that's basically covered by points 3.1 through to 3.3 on the agenda, these are focused on the land that is subject to compulsory acquisition, as they are, the statutory considerations for such land, point 3.4 and 3.5 on the agenda are essentially the same questions, but they're focused more towards the temporary possession land. So I'll turn to the applicant first, and would ask you to address us in respect of point 3.13 to 3.3 and then I'll once we've, we've had that discussion move to 3.4 but I've got a couple of sort of pointers as to where we think the main issues are, and where you can. Specifically focus your your address to us. I've got four or five points that I wish to make on those, and if I just run through those, and then you can deal with us. And if you want to come back and get a bit of clarity then, then that's fine. So firstly, can you make sure that you outline what was the process that you have undertaken to test and refine the extent of land to ensure that the minimum land take is taken. Are you through this process, continuously seeking to subject yourself to test and refine the extent of both land and rights required in an attempt to reduce it. Secondly, in terms of the extent of land being sought to be subject to compulsory acquisition and whether the statutory tests are met on all of the land, there's a particular set of issues that have been raised by various affected persons, and it would help us if you were able to address that in the round, which is essentially the rationale for the taking of parcels of land that are sought in mitigation and compensation or for other purposes in circumstances where the land is not directly required to be taken for the alignment or for ancillary works directly support the physical provision of the road. The applicant's stated case around the need for that is reasonably clear, but there are a number of objections founded on the proposition that you're taking land that you don't strictly need, and therefore could you not have taken other land? This is where we cross into the consideration of both reasonable alternatives to the specific parcels of land being taken, but also reasonable alternatives to compulsory acquisition itself, where there are other forms of agreement that could have been used. For instance, section 106, agreements, section 253, agreements under the Highways Act, separate legal agreements for the management of land, biodiversity service contract or other agreements between yourselves and those landowners that might have put you in a position where you didn't need to actually take the land through compulsory acquisition, but could have used lesser powers and different mechanisms to secure that acquired outcome. If you can address that sort of issue, I shoe, further targeting that the examining authority's interest in these matters. I suppose we're playing

devil's advocate a little bit. And there are circumstances in which, when looking at a compelling case, if you're doing that, you might say that, well, this is, this is for the main line of a highway. Then as long as all of the matters are properly taken into account, and that highway has been appropriately cited in principle, there's at least the germ of a compelling case. And similarly, if you need the land to form a batter, or if you need the land to support the highway or to enable exit from it or ingress to it. Similarly, there's a germ of a compelling case you can see that there was a physical aspect of it. There are, however, instances where you're seeking off lying land, and you're seeking it for very clearly a range of broadly environmental compensation and or mitigation purposes, which is not to say that those are not required, but is to indicate that if you are then, as I sort of mentioned a little bit earlier, looking at the broad question about the degree to which a specific parcel is required, there are potential arguments that there are ranges of interchangeable land that you could use to make that provision, and that's where the test begins to become a little bit more trickier to evidence. So I thought that was worth throwing onto the table. As I said, it summarizes key aspects of certain individual affected persons cases, which we'll deal with in detail. But there's a strategic element to that, as well as the approach that's being adopted in that regard. In strategic terms, it may be that you seek to evidence to us when considering a compelling case in the public interest to have regard to the fact that another parcel of land in another location, whilst it might deliver an equivalent biodiversity outcome or habitat outcome or flood compensation outcome, it would not necessarily deliver other specific benefits. Such as connectivity with existing sites, existing networks, or the ability for existing populations of relevant species to move through and use that land, or for flood water to be haled or managed and in a more efficient manner. However, given that some of the representations from statutory parties, there may be an issue in that regard. So we'd like you to comment on that. It's not necessarily going into the specific detail of specific plots, but the general principles that you've adopted as to how you've gone through that process. And then finally, in this section, what we're looking for is, when looking at the proposed mitigation for biodiversity and flood risk, have there been alternatives to compulsory acquisition explored so that it evidences that the approach would meet The relevant tests in section 122 in this regard, we're looking sort of for confirmation that what makes the requirements of the mitigation or compensation areas so unique that they cannot be managed by the current landowner through a management agreement. I mean, as an example, if we look at the brown hills, borrow pit, averham and Kellum, flood compensation area, mitigation compensation areas are identified for retained vegetation, new Marshall and grazing, new hedgerows or or even reinstated to its previous use of agricultural who would operate that land, and why is it need to be sea aid and not returned to the owner or manager? So again, there's sort of, there's those broad principles as to what you've actually done, how you've done that, and what one of your guiding principles. So I hope that gives a flavor of where we want you to talk to us about if you want to go, I know there's a lot in that, so if you want to come back, but if you can touch on all those bases for us, give us a bit of flavor of that, and then ask any questions, and then if anybody else wants to contribute, once they've heard what you've had to Say, then we'll do that. Thank you very much.

42:23

Thank you, sir Jonathan Bauer, for the applicant, could I just please ask you to cover the second part of the first point that you made? I had some difficulty hearing what you had to say. It was at the point where I think you started, sir, as subject to a test, and I apologize I couldn't quite hear what you said.

42:43

So just to be clear, it was which part Jonathan

42:47

bow for the applicant it was, it was after when you spoke about the extent of the land, the minimum land take, and then I think you went on to cover the sort of a second part of point one. And I apologize I didn't hear what was said in

43:00

terms of the extent of the land sought, subject to compulsory acquisition, were the tests met on all of the land? There was a particular set of issues. Is at that point that read, and it was just that there was a various matters raised by affected persons, and it was essentially the rationale for taking the parcels of land that are sought in mitigation and compensation. So that's when I sort of went on to talk about all the other bits about mitigation, compensation and things of that nature. So it was just more in terms of how one deals With the overall extent of land in that regard.

44:02

So thank you. Thank you, sir Jonathan bow, for the applicant, we'll hopefully pick up on some of those points as we weave through what need to cover, but to the extent that they're not, then I'll also be referring to some of the colleagues as well, particularly in relation to the point that you made about addressing alternatives to land, particularly from a mitigation perspective. So you've already said, covered off some of the principal documents that need to be referred to. I don't think all of them will need to be displayed you've covered. So the statement of reasons, the book of reference, the draft DCO. I won't refer to the particular application document references, unless you need me to, but perhaps Pausing first with the land plans, just to make sure that everybody understands the extent of the land that is proposed to. It to be either acquired permanently or through rights or for temporary use. And if it's possible, just to display one of the land plans on screen, please.

45:18

So in the key on the right hand side there are, there are four principal covers colors being referred to in the map. So pink is land to be proposed to be permanently acquired. Blue is land to be used temporarily and rights to be permanently acquired. Green is land to be used temporarily for the purposes of construction, and also yellow is land which is not subject to any compulsory or temporary powers at all. And so hopefully, those in the room and online and the other affected persons have understood the extent of interest to be acquired to the extent that it's necessary to have a further conversation, we're more than happy to talk through with Certainly Mr. Miller and the trustees as well, if the Thomas Brewer estate, if they would find that of assistance, if I move on, then please, from an overall perspective, the applicant is satisfied that the powers of compulsory acquisition and temporary possession that are sorts in the DCO, and those are set out in part five of the draft development consent order are necessary, reasonable, proportionate and justified. And the basis of that statement is principally a set out in the in the statement of reasons in that statement of reasons, we've set out what the necessary tests are, and so you've you've already referred to those and the conditions in Section 1222, are that the land is either required for the development to which the development consent relates, is required to facilitate or is incidental to that development. And finally, is replacement land which is to

be given in exchange just pausing there. There's no proposed replacement land required. So it's only the two, the two former tests which are applicable, the extent of the land, which is sort of a set out in the land plans, and we've already just gone through to them, and also the book of reference, which details the extent of the plots required and how they will be used and the powers sought by the applicant. Perhaps at the outset, I should just set out, of course, that the justification is based upon, principally, the scheme objectives, and they're set out at para two, point 1.4 of the statement of reasons. And so I should also just add to the extent. What I'm doing here, in summary, is signposting to a number of key parts of the application documents. And obviously we can address the additional points that you have made those five objectives relate to safety, reducing congestion, improving connectivity, delivering better environmental outcomes and building a more inclusive scheme for for the customer, And that's not just motorized vehicle use. In order to outline what it is that the applicant is seeking to use the land for, Annex A of a statement of reasons, details on a plot by plot basis, the purpose for which both compulsory acquisition freehold and rights, as well as temporary possession powers are sort over the order land, I won't go to them. But again, if anyone wishes to pick up any specific aspects of the purpose behind the acquisition or the temporary possession powers for particular plots in order for them to understand the impact. Noting, of course, this is addressing the strategic case. Again, we're more than happy to address that in in hearing. But of course, outside of the hearing, when we have an opportunity to speak with those people here, in terms of the compelling case test, sir, this is set out in section 5.4 of the statement of reasons, it's necessary to include compulsory purchase, sorry, compulsory acquisition powers in the draft DCO so that the applicant can acquire the land required for the construction, but also the operation of the scheme and that it's not already in its possession. Noting, of course, that the statement of reasons also addresses the temporary possession powers as well, if I may just touch on that, because, to an extent, the it emerges together to an extent, so that statement of reasons also sets out why the powers are necessary to use the land temporarily for the purpose of construction, as well as acquiring or extinguishing rights. Overland for the construction of the scheme, and that's in a way that is both proportionate and in the public interest, by seeking to reduce environmental impacts, minimizing cost to the applicant and hence the public purse, and also mitigating the impact on land interests. The compelling case is further evidence in the wider documentation that accompanies the DCR application, and that includes also the case for the scheme document. And I will give that reference there. That's a PP, 190, for the condition about the compelling case in the public interest to be met, the Secretary of State will need to be persuaded that there is a compelling evidence that the public benefits that would be derived from the exercise of any compulsory acquisition powers to the extent that those powers need to be exercised, and that public benefit outweighs that private loss that would be suffered by those whose interest in land or rights over land are to be acquired. I raised the point about the case for the scheme. Chapter Six of that document sets out that paragraph 2.2, of the national policy statement for national networks identifies a critical need to improve national networks to address road congestion. The road investment strategy, which is also referred to Sir in the statement of reason, acknowledges the need for improvement of the a 46 north of Newark, to dual carriageway standard. Sorry,

51:36

just to interrupt you give a quotation, an identification for the the NPS. Can I just be clear that the reference you're giving is to the latest NPS, because obviously that changed between the submission of documents.

51:55

Jonathan Barrett for the applicant, that's an action. Have a takeaway and and just check and come back to you.

52:03

Thank you.

52:19

Jonathan Bower, for the applicant and the road investment strategy outlines the long term strategic vision for the strategic road network. And the scheme is included as a committed scheme to improve the single carriageway and the junctions of the a 46 at Newark and to provide better links to the A one. And together, it's the applicant's case that there is a compelling case in the public interest for the scheme to be delivered, moving on to consideration of reasonable alternatives, and this is where we can also pick up some of the points that you have raised. So initial work looked to alternative to the scheme, which resulted in the preferred route announcement in 2022 and statutory consultation also took place in that year in designing the scheme and determining the extent of land to be subject to compulsory acquisition and temporary possession powers, the applicant has considered alternatives and modifications to the scheme to minimize the potential Land take these alternatives and modifications were consulted on and the preferred route has been chosen based on a thorough consideration of relevant issues. The initial corridor sifting exercise identified a total of three potential areas which were referred to as corridors of interest and corridor C, the most direct route using the existing a 46 corridor scored highest for economic growth, movement, accessibility, journey time, resilience, customer and with customer groups. Corridor C was the best performing corridor in terms of user benefits, providing the greatest reductions in journey times, reductions in delays in incidents and improvement in reliability. In addition, corridor C performed better in environmental terms in achieving improvements in terms of carbon, noise and the local water environment. It was also more preferential in terms of impacts on key environmental constraints and further options were then evaluated to ensure mitigation of potential impacts. The applicant has complied with regulation. 42 of the infrastructure planning EIA regulations, 2017 to demonstrate the consideration of alternatives. The environmental statement, assessment of alternatives. Chapter, which is a PP 047, sets out in section 3.4, the justification for the chosen scheme design. Paragraph two, point 6.3, of the statement of reasons also details changes made to the scheme. Scheme which have had the effect of reducing the land take now the subject of the application. Paragraph four, point 10.3, of the statement of reasons details the engagement with landowners with regard to acquisition of land by agreement and negotiations which will be ongoing throughout the DCO process. In terms of discussions with landowners, Mr. Pert from the valuation office is here, and those discussions are continuing, with with affected persons. And already a couple of conversations have already taken place this morning, with, with, hopefully those continuing after the hearing. But it is acknowledged in the circular, sir, that you referred to, or sorry, the guidance that you referred to, that where a significant number of land interests are required, it is accepted that compulsory acquisition powers be included in the application, albeit it is the applicant's intention to seek to acquire as many.

56:17

Sorry, thank you, sir Jonathan Bower, for the applicant. Sorry, it's the applicant's intention to seek to acquire as many of those interests by agreement, and we can touch on some of those points you've referred to in terms of seeking lesser interests in land or securing it through alternative means, although it's to state. At the outset, whether or not alternative means can be secured is dependent upon, obviously, the applicant, being able to reach agreement with the relevant landowner, and so it is feasible that if both parties agree, then an alternative means may be secured, although it's not possible to impose those aspects on a landowner as part of the applicant's application for a DCO.

57:09

Can I just come back to a point you mentioned a short while ago, and you explained that after the corridor sifting exercise, you sought to reduce land take. Was that second part seeking to reduce the land take in response to any objections to the potential compulsory acquisition of land, or was it in response to other considerations such as, I don't know, to reduce the impact on agricultural land? I

57:44

I'm sorry. I think we'll need some help with the microphones again. Um, you sorry. You do need to use a microphone or else it wouldn't pick up on the recording. Somebody will come with a rolling microphone very shortly,

58:05

just for the recording purposes. No

58:07

problem. Thank you. Mark Sutton, for the applicant. So the after the preferred route announcement, one of the first activities undertaken by national highways and the new delivery partner, which was Skanska, was to review that and look at the footprint of the scheme. It may go into, ask answer a question that that was raised, Mrs. Stone raised regarding the overall sort of strategy to the to the approach. The first one was to look at the size of the footprint of the preferred route announcement and the fundamental point that the majority of the scheme is sitting within flood zone three and the Trent Valley, and basically try to remove every every square meter of embankment widening we could try to move away or reduce was had a major effect on reducing the flood compensation that was required as well. So that was the first strategic view was then to look at how we could reduce the slopes or increase the slopes of the road. And some of these changes are indicated in the May I get the reference is these alternatives, assessment of alternatives, Chapter Three of the environment, station statement, application, document, 047, specific areas looked at reducing the footprint of the windfall roundabout from the preferred route announcement, the size of the embankment and number of structures at the Brownhills junction to the east of the A one and along The main line of the a 46 the steepening of embankments by using steepening earthwork techniques or reinforced soil solutions. We also had fantastic feedback, both prior to and during statutory consultation, where we took on board local residents, local stakeholder views. One area. In particular, that was that we had very positive feedback from was down at crees Lane towards the southern end of the scheme, at Farndon roundabout, there is a section there. Apologies, I'll get a reference for the records on the works, plans. Applause.

1:00:28

Works number five was the introduction of a short retaining wall along the side of the a 46 that's works number five as shown on the works plan reference as double 05 this retaining wall was included and a reduced construction access implemented to reduce the impact on the property along crees lane, Ivy cottage, so that we can retain as much of the vegetation that was on that area as possible, to continue to shield that property. Is

1:01:00

that a property that you are looking to compulsory acquire land from.

1:01:08

No the ivy cottage was originally within a larger order limit, and we reduced that order limit back. So

1:01:16

looking at where people have objected, we've got APS who said, We don't want you to acquire our land. Have you then gone through an exercise to say, can we adjust our scheme to avoid acquiring that land?

1:01:35

That was yes. After the statute, during the statutory consultation, we looked at options where there were issues, where we were encroaching onto people's land. So the main one there I can think of is down at the crees Lane area, where we actively reduced the footprint and looked at so what we particularly on creased lane, we introduced works number five. And we by introducing works number five, we reduced the logistics route width into the working area for one of the bridge construction work number seven. And by doing that, we then look to swap out what would have been compulsory purchase of parts of the ivy cottage, and actually moved and took an area of temporary land work number 10 to help manage the logistics route in there. So using a temporary land in a field system adjacent to manage logistics, rather than having that wider access. And have you done

1:02:26

that? In response to every objection from every AP,

1:02:30

where we, where we, where we practically can we've looked at alternatives, the the main bulk of the schemes, which is the online wide widening of the existing 846, so and in where we are limited, where the embankment construction and bridge construction goes. So the primarily one was to try to reduce that overall, sorry, overall footprint of the of the embankment. And apologies for going into a bit of detail here, but it's some of the some of the strategy high level is attended to the details. So, for example, a number of the bridge structures on this scheme are separate to the existing we're building parallel structures now. The overall reason for that is it's it's about risk management and understanding what we're dealing with, not extending existing bridges, and knowing what the condition those bridges is in. We can then have two separate structures, and what's defining that offset is how we maintain those bridges. So we worked very closely in the detail to work out what that minimum offset could be and how to define that minimum route going through.



1:03:30

Thank you. Applause.

1:03:43

I Jonathan bow for the applicant

1:03:53

to follow on the answer from the point I was making about engagement with with landowners, the status of where matters have reached with affected persons is set out in pen, sorry, Annex B of the statement of reasons, noting that was at the state at the application stage when that document was finalized. And updates can be provided on that at the relevant deadlines that deals with what I wanted to cover by way of introduction, in relation to the extent of the powers And the compelling case the points which you have raised in your in your

1:04:49

apologies, Mr. Bauer, just a quick question for me, just to test my understanding in terms of the alternatives when you're looking at the different route corridors the. See again, this is just from my own understanding. This option C that you've gone through for this is that, is that the route that takes in the least amount of third party land take, so the least amount of land you'll be seeking to compulsory or temporarily acquire

1:05:24

from those for the applicant, I can confirm, is the least amount of land required. Applause.

1:05:42

I thank you, sir Jonathan Bauer, for the applicant just reviewing so some of the points which you raised in your the five points,

1:05:59

we've confirmed that the process that went went through to identify the minimum land take, and Mr. Sutton has identified at least some of those points which have been covered, issues raised by affected persons for land for mitigation compensation again, Mr. Sutton has covered some extent where we've sort of reduced the extent of that that land, we may come on to the mitigation point in a moment, particularly in relation to flood compensation, and how that those the extent of that interest, how it can be secured, and the discussions that have been taking place with landowners,

1:06:45

yeah, just maybe something that you're going to come on to. We've talked about alternatives, and we've talked about physical alternatives in terms of alternative routes. Are you going on to tell us, or could you go on to tell us about your strategic way in which you've considered alternatives to compulsory acquisitions, such as land management and such as section 253, agreements under the Highways Act, or section 106 agreements and allowing existing landowners to retain their land and then manage it, rather than compulsorily acquire it as an alternative to compulsory acquiring it. So it's it's

more the management and style of that, rather than the actual physical side of the alternative approach and design of the scheme that we want to get a bit more clarity on

1:07:43

Jonathan Barr for the applicant, yes, sir, perhaps Mr. Pert from the valuation office might want to just set out the broad approach that has been taken to seek to reach agreement with with landowners, and then we can to the extent necessary then cover any specifics in relation to appreciate there's a fine line here between not wanting to understand the strategic approach versus how it's been put into practice.

1:08:12

I think that's the point. There is that sort of fine line, and why we're raising it here is because there are a number of representations that we've received from affected parties who in effect raise the same issue, where they're saying, Why are they compulsory acquiring my land, I can continue to manage this, to provide their bng, to provide Their blood compensation. I can do that without them actually taking the land away from me and just some temporary possessions or a lesser impact, as it were. And we just want to understand what your strategic is. Obviously, whenever we get to the specifics of individual cases, we may look to delve into that a little bit more in detail, but it's the general approach that's adopted as to, I suppose, in crude terms, have you just gone, well, we're going to see either land because we want to, or have you sort of, sort of, well, what's the least possible impact that we could have on these parties by taking temporary possession, Doing whatever work we need, and then just agreeing some form of management agreement for that land. So I just want to understand, in broad terms, how you've approached that.

1:09:32

Thank you, sir Jonathan Bauer, for the applicant, sorry,

1:09:34

Mr. Bauer, and just on the back of that as well, it might be worthwhile having some consideration to the wording in the road investment strategy is page 104, you appreciate you don't have this to hand. I'll read out the relevant section. It's a 46 Newark bypass. Halfway through the paragraph, it says much of this road is already. High quality dual carriageway, and by filling in key sections, it would be possible to create a coast to coast highway without the need for major new road building across open countryside. So on a strategic level, how much influence or otherwise has that wording within Riz two had on your overall approach, and I think that probably ties into that sort of high level question which Mr. Stone is seeking to get an answer to.

1:10:35

Mark Sutton for the applicant, looking at the statement in the road Investment Strategy two, it's very much the early shift sifting exercise between the corridors, if one refers to the assessment of alternatives, application document number 47, Chapter Three of the ES. There is a figure within there that shows quite well, I think, quite succinctly, the free four, five corridor options online, particularly one can see there on option C, that is following the existing Newark relief, Newark relief road that was constructed back in the 80s, and that was probably one of the earlier driving measures of selection that route by the Secretary of State At the time to make a preferred route announcement, rather than

heading out into the open countryside to the north or the south. And I refer back, really, to the flood zone being quite a major constraint on this scheme. Going further to the north, you're going into much greater area of that flood zone requires the construction of a dual carriageway rather than a single carriageway as such as this scheme is thus exponentially increasing the amount of land that were required for that mitigation measure as well, and that's just for the flood compensation, not including any of the environmental mitigation that would be associated With those works as well.

1:12:00

So strategically on that level, yes, I mean, I've obviously read the alternative section in there. There's obviously quite a lot of work has gone into assessing different route corridors, etc. But in terms of, again, the strategic overall approach, how much influence or otherwise, has the wording and raised. I suppose what I want to make sure is that, and I don't want to stray into something which may be more appropriate for written question or issue specific hearing, but I just want to make sure that the alternatives has been for want of a better term. And forgive me for this, I want to make sure it hasn't. Just been a tick box approach given that wording, I want to make sure the wording, I swear I have it on screen here. I want to make sure that wording hasn't unduly influenced the approach to alternatives. That's that's sort of all I'm seeking to bottom out. Thank you.

1:13:05

John bows, on behalf of the applicant, I can confirm that the sifting was actually done before the it went into Riz two. So the sifting actually influenced what went into Riz two and what was announced.

1:13:18

That's helpful. Do you have a it might be something to come back on in writing as an action point in terms of the time scales, just to be able to see if sifting was undertaken on this date. Well, this sort of time period? Yeah, I

1:13:30

can get you the date. I can't get terms on it now, but I'll get you the data which that sifting report was done, and I'll get you the reference number as well. Fantastic.

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I'll take it down as an action point. Thank you, sir. You.

1:13:46

Jonathan Bower, for the applicant, thank you. The starting point in terms of the strategic approaches and by reference to the points that you picked up in terms of what affected persons have said in relation to being able to be dealt with by other means. I spoke a few minutes ago about how it's not possible to secure an application stage unless there is an agreement in place the measures that are being sought by by affected persons, although, just to reiterate the point that it's the applicants wish to seek to reach agreement with as many affected persons as is possible. And so in light of what has been said by affected persons, it's open for those conversations to continue with a view to seeing if it is possible to secure things through alternative means, in terms of, for example, essential mitigation. The starting point, given its nature, is that the freehold has been sought. But if it is possible, through alternative

means, to reach agreement with a landowner whereby they may be able to retain the freehold and it be managed in another way, that's something that the applicant is able to explore, I

1:15:31

and I suppose that puts you in a difficult position, because obviously what we will seek To ensure through the DCO and through requirements and whatever is that we've got a pathway or an identified methodology or method for securing something, and if you haven't got the agreement in place, it's not secured. So there's a sort of a chicken and egg situation. I understand that, but what I want to understand is that is that the approach is to get the least impactful approach being adopted, consequent with ensuring that you can secure the necessary mitigation. So I appreciate that it's just in many of the representations, the point is, the engagement hasn't taken to a position where we would have moved things forward enough to get to an agreement. And the question is, has enough resource and effort been put into that to ensure that those agreements are in place, or what is the hold up of that? But I'm conscious of the fact that there needs to be a position by the end of the examination where we have a secured commitment, whether that be through the agreement of a 253, agreement, or a 106, agreement, or that it needs to be compulsory acquired. And I suppose it's just ensuring that we understand where you've got to how you're adopting that process, and where you anticipate the conclusion being by the end of the examination, to ensure that all those matters are going to be in the right place, that if you are going to do it by management of the land, that the agreements will be in place before the conclusion of the examination. Or if that's not going to be the case, then we understand that that may well be one of the drivers for requiring it to be compulsory acquisition, and therefore we need to be clear that that's the reason.

1:17:47

Jonathan bow for the applicant. Thank you, sir. In terms of two points just to raise, and I will then defer to Mr. Pert in terms of what has been done from a strategic approach to acquisition. The first being that there is some active negotiation of a section 253, agreement underway. And secondly,

1:18:17

I've forgotten the second point, sir, I will come back. So yes, in terms of the status of negotiations which will advance throughout the examination, obviously there's provision for a tracker to be provided so that the examining authority can be updated. Obviously where we were at application stage is set out in the statement of reasons and matters have moved on since then, and so we will the appropriate deadline be able to provide that that update so that that you, as an examining authority, are able to see where the progress has been made, particularly as against The points that have been raised by the affected persons. Thank you very much. That's helpful. Thanks, sir. So if I can just Jonathan bow with the applicant, if I can just revert to Mr. Pert, just to give a very brief overview in terms of the approach that has been taken with regards to seeking to acquire the necessary interests by agreement,

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Simon beard valuation office agency on behalf of the applicant. Yet we have sought to look at alternative, alternatives to compulsory acquisition. If we take the two flood compensation areas at Calam as an example. We are in discussions with both of those landowners, agents for those landowners, and we have looked and are progressing heads of terms, principles, principles of

agreement, and looking at taking the license of a land to undertake the works and not taking permanent acquisition. Obviously, there's various elements to those discussions. Questions, but they are well progressed. We've had a number of meetings with both landowners and agents, and that's something we positively think we can deliver, obviously subject to compensation being agreed. But those discussions are positive, so I would hope, certainly by the next compulsory acquisition here and we can give you some positive updates on where those heads of terms are at equally, there are areas where we've got potential to use section 253, agreements so that those landowners can manage the land, subject to obviously national highways, being able to meet their obligations, that those agreements can be put into place with landowners to avoid the need to compulsory quiet land. So again, the Tracker will be updated as we go, and I would hope to provide substantive updates on those those cases by the next ca hearing,

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and you are continuing positive discussions and negotiations with those relevant parties to progress those as quickly as possible, because obviously we are within a time limited and very constrained examination period.

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Simon valuation office on behalf of the applicants. Yes, I understand that you know the need to get these agreements in place certainly before the end of the examination. And we'll look to do that certainly before, before that point. And as I say, we have substantive updates on these cases by the next ca hearing.

1:21:34

Thank you, sir Jonathan Bauer, for the applicant, if I move on to briefly cover in relation to items four and five, unless there was anything you wanted to pause with the other party, as I also have outlined the there's a fair degree of interchangeability between the The compulsory acquisition and the temporary possession the main aspects are that the powers for temporary possession set out in chapter five with a statement of reasons. The reason for seeking those is for temporary possession of land for construction and maintenance purposes. Without securing those interests in the land, the scheme wouldn't be able to be delivered and so accordingly and as detailed in the book of reference, and is also set out in the land plan showing the extent of the land required for temporary possession, it's considered by the applicant to be reasonable and proportionate in terms of temporary, the compelling case for temporary possession and and also compulsory. Sorry, that's item number six. If I haven't really got anything more to say in terms of items four and five, so I've largely covered them in the at the outset. Okay, thank

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you very much.

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I then move on to the compelling case in the public interest overall in relation to compulsory acquisition and temporary possession. A little bit. Mr. Burley may have a question for me, sorry, you're

1:23:21

going to deal with the compelling case. Can I just let that be a sort of a wrap up bit? So just before we do that, can I just turn to any of the other affected parties and see if they've got any comment that they wish to make on what they've heard this morning so far?

1:23:45

Yes. John Miller, affected person, the applicant was talking about the flood compensation area in Kellam, perhaps going to temporary possession with management rights. I just wondered why the flood compensate, compensation area just off find a roundabout would be treated any different, and whether that can be explored to have temporary possession with management agreement on it.

1:24:16

Simon valuation office, agent on behalf of the applicant. The discussions have been undertaken with Mr. Miller's agent. And it was discussed that we propose compensation on the basis of the land plans, which is which has been done. That proposal has been made. And it was also discussed that the option in terms of exploring, the option of

1:24:39

into the microphone. Apologies.

1:24:42

We've also explored the option of taking lesser rights to undertake the works with the landowner, then managing the land afterwards. That is an option that's on the table with your agent, Mr. Miller, we've discussed it there and there are, there are then different. Of these in terms of trying to quantify what the compensation will look like for the management that land some way into the future. That's where we've got to with discussions.

1:25:08

So it is, I mean, the compensation side, as I've said, yeah, in principle, in principle,

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it is something that we can, we can do and apply in the same, same way.

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John John Miller, affected person, if I may just ask, as well a management agreement. How long does that last for

1:25:31

Simon Pete, valuation office, agency on behalf of the applicant? But that's something that will be determined by the National Highways obligations for that for that particular answer, not something I can directly ask. Answer at this particular point,

1:25:44

I feel we're sort of straying a little bit into the detail of a specific case, rather than into the strategic case. So if I can just move across Council.

1:25:59

Thank you, sir. Large Group on behalf of new and Cheryl District Council, I'm conscious that you don't want to stray into particular cases, but it may just help to remind you that the council's land that's affected comprises part of a lorry Park, which is of strategic importance to the freight industry and significant land holding, and also the entrance to Council's main offices, which is subject currently to temporary possession powers, which, as I'm sure you're aware, can be exclusively possession for the applicant for up to a year until after the works completed. So it's quite a significant potential risk for the council. One strategic case I really wanted to focus on the references that have been made today to the statement of reasons and the applicants desire to reach agreements with affected parties. That statement of reasons was published in 23rd of May, 2024 we at the Council are ready and willing to enter into negotiations with the applicant. We're very keen to we believe that the land can be transferred to the council, or leased or licensed to the applicant, so as to avoid the necessity for the use of any statutory powers. We've had one meeting with the applicant so far with respect to land holding. That's not just any draft agreement or form of agreement, so we've taken the initiative ourselves by providing an outline agreement to the applicant relatively recently, as we said in the 27th September, we've yet to hear anything. We hope we will hear something soon. And this isn't a straightforward license will lease it because reconfiguration of the lorry Park, sharing a detailed design so the land take is minimized, and various property arrangements as well. So if, as the applicant has said, the intention is to seek agreements by the end of the examination period. We really do need to progress those discussions as quickly as possible in a pace which sorry.

1:28:54

Mr. Gupti, when did you have that meeting? So

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so the meeting was, I it was in August,

1:29:03

August 2024 August. 2024 Yes, so that was after submission of the application that correct. So if there are alternatives as or potential alternatives that are being discussed. How does that sit with the proposition in the application that this land is necessary?

1:29:35

Jonathan Bower for the applicant, as I understand from what Mr. Gupta was saying, in terms of alternatives, it's alternatives to the acquisition of that land, rather than it being alternative land. And I'm instructed that conversations have been going on for several months, and there have been meetings in relation to that point. If the fact that we've now received a an outline of an agreement is something that is then able to be taken forward by the applicant.

1:30:11

So should we be concerned that this is happening after you've said in the submission that there isn't any alternative to position that you were proposing when the first real well, as I understand it from Mr. Gupta, the first real engagement occurred after the submission of the application.

1:30:37

Tombos on behalf of the applicant. We've met with NSDC several times, developing the scheme solution before statutory consultation during it and after, and the lorry park itself was a big part of that discussion, and reducing the number of parking spaces that were removed from the lorry park itself, in order to keep it a viable operation, we reduce the widening of the embankment that goes down to the new brown Hills junction, and we also remove some permanent land take so that we just have temporary rights around the perimeter of the embankment to do maintenance work, which would mean that lorries could normally park there, but through agreement, we would need to gain access if some maintenance was needed to the drains at the bottom of the embankment itself, which is not a likely thing to be required.

1:31:25

I think we're moving on to specific cases here, which we want to avoid. My point is a more general one of concern that the case put forward to us, the compulsory acquisition of land may not actually require that compulsory acquisition of land because engagement may have taken place after the submission of the application.

1:31:53

So John Bowes, on behalf of the applicant, that land is definitely required to take the embankment from the Lincoln East railway line lying down to the junction, and there are no alternatives that have been discussed in terms of the scheme itself. The alternatives would be, I believe discussions have been undertaken in terms of alternative locations for the lorry Park and not what the actual solution is for the DCO. You

1:32:23

Thank you. Unclear. There were indeed discussions in advance of the application for the DCO about the about the scheme, how it would affect the Lori Bock, I was talking about discussions have taken place since the statement of reasons towards what we would hope would be an agreement, effectively what we call a land and works agreement, which would regulate how the lorry part will need to be reconfigured following the the The Works necessary for the scheme, all in advance, in fact, the works necessary for the scheme to minimize the impact on users and on the council, and to minimize the land take or the temporary possession or the use of temporary possession powers, following detailed design. So what we envisage is, yeah,

1:33:28

I don't want to sort of stray too much. We're very conscious that NSDC have sort of almost got two hats on here, so, and that's a landowner hat, and a specific issue that you've raised with us, which needs to be addressed by the applicant, in relation to the impact on your land holdings in terms of the lorry Park and in terms of the access arrangements to the offices and how that will operate. And obviously, as you say, that needs to be done, an agreement needs to be moved so as quickly as possible. If that can be



done, then that's good, but that's much more into the specific issues, and maybe in December, and maybe we will have made a bit of progress by December, so that when I come to discuss that, we will be in a better position and seeing where we're going to but have you got any other comments on the general, strategic case that you'd like to do. I'm conscious that we're moving on, so I'm going to go to a break shortly, but I just want to get this, this, this agenda item, concluded before we move to that break. But have you got any other matters that you want to raise on the strategic case?

1:34:36

I don't think so. So I think that's like the main point I wanted to make was to encourage the applicant and to make the examining authority aware of the need from the agreement. I just one other point of interest is the guidance. The central government guidance on compulsory purchase has been revised and reissued just this week, so you may. To be aware of that, sure the applicant will be providing you with a copy

1:35:16

for your comments. So I think just to conclude this section. You've helpfully moved on and sort of identified the relationship with temporary possession for 3.4 3.5 and you were just going to before I interrupted your apologies to conclude on the compelling case. And I think that that will then sort of take us to a natural break, and we break at that point. So if you just wanted to make your final point that you wanted to say about the compelling case, I think you were just about to say there is one.

1:35:49

Jonathan Bauer for the applicant. Thank you, sir. And just to pick on upon a point from Mr. Gupta, before the start of the hearing, we agreed that we would have a chat afterwards, in order to advance the conversations there and and to reiterate the point that the extent of the land interest is has been set out in the application to the extent that it is possible, and it certainly it's in the applicant's commitment To do so, to try and seek agreement with those landowners, to either acquire the interest set out by agreement, or through any lesser means, which, as we've set out, does require agreement from that landowner as well, because it's not possible to provide for that In the DCO. So sir, in terms of the overall compelling case, section 2.3 of the statement of reasons sets out the benefits of the overall benefits of the case, and I've covered those to an extent. At the outset, I know that we'll also be going on to cover human rights, and to an extent that compelling case is intrinsic in that regard. So yes, in short, it's the applicant's case that there is a compelling case, but after the break, we can cover off the how the matters relating to human rights and also equalities impact have been addressed, because I appreciate that the Secretary of State needs to be able to weigh that public benefit as against that private loss. But finally, sir, the without the powers of compulsory acquisition and temporary possession being included in the development consider consent order if made the applicant considers it would not be possible to construct the scheme or realize the public benefits arising from it, and accordingly, does submit that there is a compelling case for the those powers to be included within The order, if the Secretary of State is also minded to make the order.

1:38:17

Thank you very much. I think that probably takes us to the end of item three. I'm happy that we've covered those issues off. Checking with any else, everybody in the room seems to be fine online. Don't

see any lack any hands up. Okay. So we've concluded with item three, we I said at this start that we would take a break around half 11, so I think it's appropriate to do that. So the I will adjourn the hearing, and we'll say, let's come back at 12 o'clock. We've got 20 minutes, so the hearing is adjourned and we will return at 12 o'clock. Thank you. Applause.