

# AUDIO\_\_LUTON\_CAH2\_SESSION2\_2811202

## 3

00:07

Hello, and welcome back, everyone. Just before I pass back to Mr. Davis to continue the discussions on Agenda Item three, I just we had a, and it may have already been resolved. And I have an action point that you possibly can come back to us after the break regarding the long lease versus purchase and why Rebecca

00:27

clutton for the applicant. As I, the long and short of it is that is just this the subject of negotiations at the moment, it is both parties preference, related, broadly two reasons of long term asset management. But for the purposes of the examination, our view is it makes no real difference as to the fact that we're going for a long leasehold rather than a freehold because, as I've mentioned previously, a lease of that sort of duration is regarded as an effective freehold. Thank

01:02

you for that clarification, in which case, I'll now pass back to Miss Davis to continue with the discussions on Wigmore Valley Park.

01:08

Thank you. A question for the applicant on when and at what stage the replacement land would be defined as open. And I know, I asked a question on this previously, and there was some resistance to going any further than saying it's open and not providing a more detailed definition.

01:44

Is, is the applicant saying that the time that's been spent since 2015, developing this land means that it is now just about ready to be open as it is, are you planning to do more? And if you are planning to do more before you call it open? Where's the measure of that? Where's it secured?

02:09

Rebecca clutton for the applicant, madam, there is more work that's required to be done. And that's a matter that's addressed through the strategic landscape Master Plan, which I think Mr. Henderson is going to tell me where that's secured itself. I think it's pursuant to one of the requirements.

02:29

Fine, that's definitely in there. Does that contain a definition of when something is developed enough that it's considered open? Because I'm not clear that it does. Rebecca clumps

02:42

the Applicant? No, it doesn't. But it will be made. I mean, it will be open when it's accessible to the public. And that is the point that's been made. In this code of the amendments that have been made to the code of construction practice at the point at which we allow the public to access it, it will be open at that stage.

03:05

So access is one thing. But in local policy, and in the act, it saying that replacement law needs to be of equivalent type, quality quantity, or better. Just giving access doesn't guarantee that you could put signs up tomorrow that change it from saying private land to saying this is now open land and access will have been provided. And by the definition you've given us that then open for the purposes of being able to develop on the existing Wigmore Valley Park.

04:01

Rebecca clump the applicant I'm gonna pass this one over to Mr. Henderson because he's more closely tied to the DCA drafting and he's going to talk about the article that that deals with this.

04:11

Thank you. Good morning, Tom Henderson for the applicant. Yes, I think there were just a couple of documents at least in well, three documents dimension in fact, so we talked about the strategic landscape master plan that is secured by DCR requirement which I'll just give me a moment I'll give me the reference

04:36

Thank you, beat me to it. So that secures the the scheme to lay out the land as replacement open space. You then need to look within the DCO at the special category land article which is article 35. And that provides an mechanism that's effective or gives effect to Section 131 of the act, and requires that the applicant can't take ownership of the special category land has been taken from the portfolio park until replacement and invested in the in the owner of that land. But it also provides article 35, paragraph one, a mechanism for developers scheme which has to be certified by the relevant planning authority. So that would obviously provide the detail in connection with the strategic landscape master plan around how it's going to be laid out when it's going to be laid out. And those various matters will be dealt with there. And then the third element is that as Mrs. Clinton has said, as the code of construction practice. Yes, sorry, I've been rightly reminded that article 35, subparagraph, three, makes provision for that scheme to be implemented. So there's a there's a commitment there. And then lastly, as I say, we made an amendment to the code of construction practice having regard to submissions and comments that were made at one of the previous hearings about clarity about when access would be made available. And if you look at the latest version of the code of construction, practice, section 12, paragraph 12 point 1.1 subparagraph II, that now confirms that access to the existing Weibull Valley part will be maintained and construction works on that land won't commence until the replacement open space is accessible to the public. So those three things work together. Yes, I get that.

06:43

So my question is, how are we securing that it's of equivalent quality. And the third one with code of construction practice just says that it has to be open. So that doesn't secure any sorts of quality? I can

see that under Article 35. You're saying that the landscape scheme has to be applied to give effect to Section 131 of the act. But that scheme, if you're the Planning Officer at Luton, is there anything there that tells you this is the line when it is now a sufficient quality that it meets the requirements of replacement land as defined in either local policy or in the act? When does that planning officer know that it's in a good enough state, that it's properly replacement land?

07:38

Tom Henderson, the applicant? And Madam I think I think the the exercises the judgement as to whether the section 131 test is met is a matter for you in this examination and your recommendation and ultimately decision of the Secretary of State. So that needs to take into account the extent of the land provided the proposals for that land, and matters such as any any delay between the taking of the current Park and the replacement. And as I said, we've already made a commitment that there's no no break in the in the period. So my submission would be that that is a matter for this examination. And ultimately, the Secretary of State to be satisfied that the section 131 test is met having regard to those three documents, although those three mechanisms that we've mentioned. So I think the answer to your question is probably that one of interrogating the strategic landscape master plan, and the commitments in there to replace the land and how it's going to be laid out biodiversity, recreation and other matters. And then to be satisfied that through that scheme, which is secured by requirement nine, the article 35 process which requires the local planning authority to certify the scheme and the undertaker to lay it out. Those are the mechanisms by which we say the testament.

08:53

So my understanding of it, then, and please do correct me if I've misunderstood this is that once the land is accessible, it's open for the purposes of being able to develop on the existing Wigmore Valley Park. And that, although the landscape plan has all the best of intentions to replace that land so that nobody's disadvantaged and that it's sort of an equivalent experience, there could be a gap between, with more Valley Park being developed on and the replacement land reaching the level of it being equivalent.

09:35

Tom Henderson's the applicant, I mean, yet yes. I mean, inherently, it will take time for the replacement land to mature. So, you know, at the point at which is made open to the public, it will be in its early stages of establishment, as I say those matters in terms of the specific data accessibility, and you know, the point at which it's made accessible, how its laid out will be a matter for that scheme. That's detail design matter, really. secured through article 35. But as I say, when you come to the exercise of balancing whether the section 131 test is met, then that is a factor that you can take into account to return to your point about providing more land than this taken, that's often a way that an applicant will seek to satisfy that test by saying, you know, recognising that the land may take some time to mature, there might be a gap between land being taken and new land being made available, that extra land can can weigh in the balance in terms of the you know, lesser than that isn't

10:31

an argument that you've put, well, we're not making

10:33

that argument because we're making the land accessible at the point is taken. But it does go to the point where your point about the land, obviously taking some time to reach an equivalent quality to the land that's being taken, I would say would be relevant to that.

10:48

So there's no intention to wait until the replacement land is of equal quality before developing on Whitmore Valley Park. I see. Thank you, Rebecca,

11:01

and for the applicant, Madam just to indicate that that is not an unusual situation. Obviously, in many of these cases, as Miss Henderson says, land, land that hasn't previously been used for recreational purpose, or that hasn't had particular had wildlife or biodiversity features on it inevitably does take time to to mature. And it would, it would effectively defeat the purposes of being able to actually get on with your projects. If you if you had to wait until you know, if you if you're replacing a part that's been there for 20 years, you can't you cannot wait and deliver the project.

11:40

Condemned Thank you. I didn't get straight on that. Now. Was there anybody else that wanted to make any comments on that point? Mr. White, Pete

11:48

white friends of rainbow Park, there's just somebody referred to earlier. They've owned the land for eight years, they've known what the land is going to be used for for eight years, you can have been eight years into replicating what is in Whitmore park now. But nothing's been done. So as we've said all along, and from what we've heard, just now, we're going to lose our lovely 40 year old mature Park and end up with a field. And for eight years to be wasted in the lifespan of a park. We don't feel as acceptable. But it's just a comment on that. Thank you.

12:28

Thank you. Moving on to the future quality of the replacement land and it being no less advantageous. So covering things like the distance travel, the openness and the character of it. I noticed that friends of Wigmore Park raise concerns about the loss of access from eating green bowed by the entrance of the tidy tip. Is it true that that access is going to be lost?

12:53

Rebecca Clinton for the applicant? In short, no, that's not the proposal in relation to this item? No, I'm, I'm I'm anticipating, Madam that you're going to want to go through the various points that friends of Wigmore Valley Park have made in their response and how we respond to those. For that purpose. I just wanted to indicate that I do have Mr. wooley, our landscape architect who is available online who's who's ready to deal with those points. If that would assist you. That'd be great. Thank you. Thank you Okay. In that case, then I will introduce Mr. wooley, please. And I think you'll recall my solely from a previous is h. And I know that he's he's identified the various points that have been raised by friends of

Wigmore Valley Park, including distances, noise, urbanisation, and he's able to provide a response to those for you.

13:49

Thank you and welcome Mr. wooley.

13:56

My first question was for the friends of Wigmore park at defy if you say that you've counted the steps from various entrances to the park area and compared those to the acquired land and I want to go into it if you want to just talk us through what you've what you've

14:12

basically as we've reported, we've sort of started from two places one was from the carpark Wigmore Valley Park and one was from the entrance that people use from mine and my and Vauxhall Park, and we literally just counted the steps and we got like, I think from Wigmore park to the edge of where the tidy tip is. I think it's 400 paces 450 paces people come in the opposite direction and and walk into the park they've got quite a walk before it actually what they'll consider to be actually in the park initially there will Candela if they can get in via the link road, because not sure there's going to be a pavement on the link road. If they're going via the link load the part that Papa doesn't start really until a week Should the car park of Wigmore Valley Park? Because it's just a narrow corridor.

15:06

Thank you, Mr. Egan. Does anyone want to come back and comment on this pavement on the link road and whether there will be one?

15:18

I think will essentially hopefully, Mr. Will is able to answer that for you.

15:21

Yep. Julian barley pick F rod for the the applicants. We in the strategic landscape master plan, the illustrative master plan does indicate there will be a pavement along the link road offsuit. This is subject to detailed design, but it is the intent that there will be an access from that points. And they certainly don't intention to fence off Wigmore Valley Park, in this leg patient.

15:51

So the entrances or the the ways to get to Wigmore Valley Park run likely to change significantly.

15:59

Chicken What do you pick out routes to the Applicant? Yes, that's correct.

16:02

Thank you. Then Richard chop in at rep. 5083 said that there's no mention of the immediate experience of openness when arriving at the park versus a one kilometre round trip with some other return walk uphill to achieve the same experience. And it's not an equal experience for someone who's not able to

walk very far. Mr. Ali, before you come back on that. It might be useful at this point. In the meantime, to put up rep 4071 which was the applicants response to our action points, and specifically figures 3.1 and 3.2, which are the walks around the park. Mr. Willie, did you want to come back on Mr. Champions point? Well, that's being done.

16:51

Julian, for pick ever odd for the applicant. Yes, we we acknowledged that there will be a greater distance to travel in some locations to the replacement tape and space. I'd like to point out that with regard Wigmore Valley Park the the, the sort of main area of openness as you experience the park from from the car park will be retained this is the most level area that means to grassland consisting of groves of trees, you know, it's a very pleasant area, notwithstanding the substantial noise from the ability of the adjacent airports. The we are provided in this, this development is providing a mechanism for substantial investment in the Hansmann to some of the existing facilities that skate park, the play area, that pavilion and these are going to still be located in exactly the same area within the region of the area that they're already situated. The the compulsory purchase lands, which we've we've identified a sort of undulating and Mincy grass on there, and it's undulating due to sub subsidence from the the landfill that it's built upon, in my opinion, isn't of the greatest quality 38 experientially you are you overcome I would say by that by the noise you don't David there is no mitigation between that land it's slightly elevated through your bank moments. And you're overlooking the airport and the roadway. And by the creation of the replacement space allows for some mitigation for noise featured visually as well to the airport that's to the intervening distance it's further away from the runway, there's going to be intervening landform vegetation and the replacement open space we acknowledge will not recreate exactly what has been lost but will actually provide in my opinion again you know enhancements and improvements in terms of overall variety of habitats, network of footpaths and opportunities for for different uses of this area. So yeah, as you can see this from the plan that's that's, that's on screen. Take there's a comment something about the the surface, the carpark that we can see the large the large grey area within the centre of the of the image this will be again subject to detailed design. This is currently recessed within the ground. There's something like a sort of 1520 metre level difference between it so any views will be looking over and above this car park and as I said we are moving we are moving away especially with the replacement after space away from the airport. And where we'll be looking to establish a much an experience more akin to a country park we're going to be transitioning from an urban park with more Valley Park as it is it's an it's an urban park it's, it's situated on the edge of the urban area of Luton between substantial area of housing and, and the airport, which obviously is a very dominant urban feature. But the replacement open space allows that sort of transition to to a country park and wider assimilation into the landscape. If I if I could just just because I was itching to say something a few minutes ago with regards the you know, the delivery of the replacement type space. Everything that my colleagues, Tom Henderson and Rebecca cluttons has is absolutely right. From the legal standpoint, in terms of delivery, there will be a contract for landscaping works. And as part of that the contract administrator role will be to assess whether when the park and the replacement open space is practically complete. And that will require an issuing of a practical completion certificate, which will enable the park to be opened and handed over and allowed for the general public to use it so so it has that elements as well. So if the assessments of when the works are complex.

21:37

Thanks, Mr. Willie. That's very helpful. Coming back to Mr. Chapman's comment about openness. You in the first part of the park, coming from the car park, where people that perhaps aren't as mobile are more likely to stay there experience from that parkland. My understanding is that there'll be quite a large bund running along the entire southern end of that. Park. So can you confirm that? How big is that burdened? And what does that mean in terms of their experience of openness? Will they feel like they're in a gully for the short first section before they reach the replacement land?

22:34

Julie will pick her out for the applicants matter. I think I think that I think we getting mixed up by with dissection of the scale of the plant. If you you know, if you look for the size of the deck of an aircraft around the terminal in comparison to the space, you know, we're still talking about substantial area of openness. Yes, there will be an embankment again, I don't want to be drawn specifically on the the exact height of that. Obviously, we've we've modelled it and it's contained within accurate visual representations. But there is already an existing bonds within this location. If you enter Wigmore Valley Park at the carpark there is there is a five five metre level change between that access point and and the area of undulation. What what in my opinion will have been is that with the bond and the planting a will provide audio mitigation, which I think would be of a substantial benefit to the park and make it a much more pleasant environment to spend time in. But also I think it will be the planting will help focus on the existing park park Commons, which which is in this location subject to the enhancements we're talking about within the facilities will you know will be a great it'll enable a sort of a modernisation of this park and the enjoyment so your your your focus will be on the formal parchment area the large expanse of open immediately grasslands with glazed groves of trees and that that that will be that will be where your enjoyment that be what your experience will be without I would argue the impact of the airport will be of a lesser degree than it is at the moment.

24:39

Thank you Mr. wooley. You've described the replacement land as moving more towards being a Country Park than an urban park. One of the points that has been put to us is that from that placement land, you're possibly going to have a view of not only the airports, but also the car park, the fuel storage facility and the water treatment works. How does that work in terms of providing someone which feels like more rural parkland?

25:22

Do you really pick every yard for the applicants? As I think I mentioned a few minutes ago the there is going to be a level change though this this area is recessed into the ground. So we have got, you know, land forming to enable that so you will not necessarily experience a view of the carpark or certainly not the whole of the carpark we've got substantial vegetation as a landform in between the two. So I don't believe that there will be that experience of a large surface area carpark.

26:00

But you will be able to see the fuel storage facility and the water treatment plant.

26:06

Against this is Julian relief for the applicant, madam. I think this is again subject to detailed design. Yes, there's the chance that you will be able to see it but I can't categorically say you can or can't at this point in time due to the the nature of you know, the illustrative nature of the work that's been done to date and the Rochdale envelope approach that's being taken.

26:39

Thank you Mr. wooley. So I'll come now to the Friends of wall Park. Mr. White. Mr. Morgan, do you want to comment on anything that you've just heard in terms of the quality of the experience of the replacement Park,

26:55

Pete white friends with more park, you hear talk of a band for the initial part of the park, you're still going to see a hotel, you're still going to see a terminal, you're still going to see a multi storey carpark unless that's a hell of abandoned. The undulation mentioned going into the park as it is now where you walk past the playground and you go up that undulation that's actually the edge of the refuge tip. So that's the I don't know, you can't call that a natural feature because of what's underneath it, I suppose. And the other comment we'd like to make is the recess carpark. Once again, you won't see a car park, but you'll still see a terminal building, you'll still see a multi storey car park, it will still see all the gates and the aircraft and the apron. It is it will still give you the impression in that first part of the park. And as you look at the diagram in front of you, I think the Eastern top end of the park, you might get an impression that you're not near a massive industrial complex, the rest of it you will. And the only other comment we'd like to make is the use of the new replacement parkland. They mentioned that currently at the moment, if you go into the corner of the park, you can actually look over the end of the runway etc. In the new park, you'll be sitting at the end of the runway. So you'll still have aircraft flying over you, you'll still hear aircraft taking off and landing on the runway, you'll just be in a very, very slight different position, but the noise aspects will still be there. Thank you.

28:35

Did I also understand your representation to say that you had concerns that you wouldn't be able to access all of the replacement land?

28:47

I think the the gist we've got through a lot of dialogue with the members is that they'll look for somewhere else to go. Because to get to where they want to go. It might be too far for them to walk. We had the comment about the access route along the thing. If you're a dog walker and your dogs timid of traffic, you're not going to walk it along the main road with vehicles whizzing past all the time. So people will probably possibly say I'm not going to go to Whitmore Park anymore. I'll come to the park which is just behind us here. Low Fare Road, which is the only wild Park left in this part of Luton at the moment. So our concerns are that as that parkland. If it is underused covenants don't mean anything to anybody that lives in Luton, you know that if you live in Luton, that the council changes its mind with the wind. That land could then be used for even more expansion and more anything else. So it's a nice pretty picture. But in the real world, you'll still see an airport You'll still feel you are next to an airport. Thank you.



30:03

Thank you, Mr. White. Did anyone else have anything they wanted to add? Mr. Morgan? Yes,

30:08

sir Jeff Morgan fencer Wigmore Park. In a submission, we made reference to a document, which is a map of his map reference for dot three, but I can't remember what the document is right now. It shows a mess of open space, but much the open space has no public access. So we argued that shouldn't be part of the particular submission, because it hasn't got public access is not the new Wigmore Park.

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So I think that must be the bit that I've picked up on. And I haven't quite understood what it is you're saying. So if this is not accessible now, I think the idea is that it will be accessible in the future,

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or it won't be accessible in the future. And I've confirmed that so is a big chunk of land that basically goes up towards the former Fox public house, which is Dolly hall that appears on maps, or the submission as open space. But it's not public open space is restricted access. There's no public footpath through it, the public aren't allowed to you won't be allowed to use it. That's been confirmed by Luton rising because I email

31:15

them. Okay. I'll give the applicant a chance to respond to that, because I think you probably know what Mr. Morgan is talking about in

31:25

the Rebecca clutton for the outcome. Yes, a few points, just dealing with that last point first, then, yes, there is an area of land that is for habitat creation and biodiversity net game that is not going to be for open access. But just to be clear, that hasn't been included within our calculations of replacement open space for purposes of recreation. So that's additional two rather than inclusive of and there was just another point that I wanted to make in relation to the visibility of the water treatment plant, etc, which was referred to to which I'm advised will also be at lower levels behind the retained rich line and then there will obviously be additional screening planted as well. I think Mr. Mr. Mr. wooley would be sorry for thinking Mr. Mobley. Mr. wooley will be able to confirm that I think too.

32:17

That's great. Thank you. Are there any other questions then about the quality of the replacement land?

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Mr. Morgan, just like people coming from laneway estate or voxel Park, the area that's going to be compulsory purchase is the principal area they walk on. Right, then walk into the county wildlife sites they want to these areas are going to disappear. The fact that we've got replacement land a field away, doesn't necessarily mean they're going to use it.

32:48

Yep, we've taken note of that. Thank you, Mr. Morgan. So my last questions are probably mainly for Luton Borough Council, Mr. Gala. It's looking at local policy, LLP 27. To start with, and that's about loss of open space parks allotments. Do you have that in front of you? I'll read out the relevant bits. But if you do need it written down, I'm sure we can get it up on the screen. The important bits that I wanted to ask you about today was that development proposals that result in the loss of open space parks, green infrastructure will only be permitted where the most up to date, evidence demonstrates that the open space is not in an area of identified deficits in the locality and a surplus to requirements. So is this an area of identified deficit?

34:07

I'm sorry, David Gertler, Luton Borough Council. I'm not aware that it is. I will have to get back to you in writing for the next deadline, once I've checked with my policy colleagues,

34:19

thank you.

34:20

I'm just on that though. In 2021, we did grant planning permission for the redevelopment, the green horizons development and that created a park of about 40.2 hectares. I think it was the existing park I think we say is 38 point something. So we were in granting that we did consider that policy. Okay.

34:46

I'm going to come on to that second policy in a moment just to finish off on LLP 27. The next section of it? Well, Part C is that development will only be permitted on Parks. where development is ancillary, complementary and limited in scale? So, in your opinion, is the proposal ancillary complementary and limited in scale or having heard what you just said? Do you consider this policy superseded by the the next permission and possibly policy L L P six, which we'll come on to next?

35:31

Yes. Excuse me, David Gertler, Luton Borough Council. Yes, we did consider it when we consider the new central park planning application that had significant development going on. Within Whitmore Valley Park. We also considered it in light of LLP six, which covers is the airport allocation, and it covers Wigmore Valley Park, and the New Century Park area. So we, for that development, we considered that although there was going to be loss of Parkland, there was going to be loss of I think it was five hectares of CWS. County wildlife site, there was going to be replacement, and we consider that to be appropriate. And we then considered it to accord with the local plan policy.

36:25

Thank you. So the parameters are different here. Do you still think that LLP 27 is relevant to this application, and we that we need to consider what's been proposed against it?

36:47

David Gertler, looky loos and Borough Council. In our account, remember which reps, we did point out that the local plan only goes up to 2031. And that this development goes well beyond that. Our local policy team are currently undertaking a review of the local plan. Can you phrase the question again?

37:20

Is LLP 27? In your opinion, still relevant to this application? And do we need to consider it?

37:31

David Gertler loosen Borough Council. I'd say it's still relevant, but you also have other material considerations. So the council as local planning authority has approved development on on the site already. That has to be taken into account with this. And I would also say that the, as I said before, the local plan is under review. And it only runs up to 2031. Thank

37:57

you, what's the timescale for the review of that local plan?

38:02

Can I get back to you? My

38:04

question is, will it be drafted in any substantial way before the end of the seven? Sorry, it

38:10

will not be ready. They've literally just started work on it this year, I believe. So

38:16

it's not something we need to take into account. Thank you. So in the current development plan, you've also got a policy for the airport, which is LLP six. Part II specifically deals with the loss of Wigmore Valley Park and its replacement. However, in the opening part to policy party, it says that, in delivering development, and access for Century Park, the following criteria will need to be satisfied. So my question for you is if the loss of Whitmore Valley Park isn't linked to the century part of development, does this policy fall away for us?

39:07

David Gertler, Luton Borough Council if he's not linked to new Central Park, I would say that same criteria and same considerations that we had for new Central Park we would apply on the new central park development. This policy, we did point out that the development was contrary to this policy. We did point out in the committee reports that the transport assessment had considered the benefits that arose from opening up the link and with the socio economic benefits associated with with the development of New Century Park. We we considered that too, in the planning balance so out way I would have to look again, there is a specific sentence in the new Central Park committee report, which refers to the reason why the inspector had imposed had recommended or accepted this, this part of the policy. And I'd have to look back at that and probably give you a rough arising written report written response at deadlines six,

40:24

that would be helpful. Thank you. I think, mainly for our purposes, we need to understand what local policies are applicable here. There are slight differences between LLP six and LLP 27 and protection of Wigmore Valley Park LLP six is arguably stronger. I'm just not sure if it's applicable because it's linked to New Century parks. So if you could clarify the council's position on that, that would be very helpful. Thank you. Mr. Slaton? Did was there anything you wanted to say in response to that

40:57

Rebecca clutton for the applicant? No, madam, if you would like us to address those questions for you? Also, we can obviously do that, if that would help.

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I didn't see any harm in getting your opinion on that. So yes, if you could take that as an action point that will be useful. Thank you. Was there anybody else that wants to comment on questions about local policy? Mr. Morgan,

41:23

so it's just the fact that the placement land as close as Luton land has got to be in Luton, you can't have replacement land in a different county. Right. And that seems to been dismissed. And it's always worth repeating as many times as I can, that the link road that goes from eating green road onto Wigmore Park is a breach of the local plan. It shouldn't be there. Thank you. Thank

41:49

you, Mr. Collins just informed me that those will be dealt with this afternoon.

41:53

I believe that the green link road is matters being considered under the issues pursuing a seven on traffic and transport this afternoon.

42:02

This is Pete white friends with Moorpark, I just want to take the opportunity to provide you with a little bit of background because you said about the LLPs. The original Century Park was actually going to be built in the land that is now going to be the replacement parkland. And it was going to be accessed by a road in a tunnel through the airport centre of central complex. That was never feasible, so it never got developed. And then New Century Park green horizons Park appeared to have to be on Whitmore Park. The sole driver of New Century Park with more Park was the access road. Because the access road opened up the site to the development of the airport in this application. That took a huge amount of finance off of any potential airport development because the road would already be there. It would be the developer it would deliver the means of developing the site for terminal two. That's what New Century Park slash green horizons Park was all about. I'm not a planning lawyer. I don't know how these things work. But RSR group took it as being that they were trying to trying to fight turn a green site into a brown site because brown site gets easier planning application through the local authority. So the background to those LLPs that you mentioned, in our opinion, solely base is based on green

Century Park would never actually even existed, because it purely was to deliver the road to build terminal to to take it out of the budget. If you look in the in the long history of that road. It doesn't have a business plan. It's not financially viable for green horizons business park, That is stated in numerous Council things. It's only viable for an airport. Thank you.

43:55

Thank you, Mr. White. Was there anything you wanted to respond to when any of those points was less than Rebecca

44:01

Clanton for the applicant? I think the madam The only thing that we'd say is obviously the in a sense, the history of the policies doesn't really matter. The policies say what they say there is an interpretation of those, that that's a matter of law. Gotta get that right. And then the application is obviously a question for your judgement. Thank

44:18

you. My final question, then just off the back of that was this point that the replacement land will be in a different county rather than Luton? Did you want to respond to that here?

44:28

Rebecca clutton for the applicant? Our position is that there is no prohibition on the replacement land being in a different county provided that it meets the other tests.

44:36

Thank you. That brings me to the end of my questions in relation to wiggle Valley Park in the replacement land. Was there anything anybody else wanted to draw to our attention before I pass back to miss darling? Thank you.

44:56

Thank you, Miss David. So item four on the agenda which sections 127 and 138 of the Planning Act 2008 and schedule eight of the draft DCH protective provisions. And Mr. Bloom has very patiently sat all the way through our discussions on Wigmore Valley Park. So hopefully this is your moment now. So since the last compulsory acquisition hearing, I note that as currently drafted schedule eight of the draft DCA, which is rep 503 has been drafted includes a number of additional provisions, in addition to the generic protective provision for the benefit of protection of electricity, gas, water and sewage Undertaker's part one for the protection of operators of electronic communications code network operators part two. And for London Luton Airport limited the current operators of your airport part three, there are now a number of additional protective provisions that have been included that weren't in the original draft. And these relate to the protection of Kayden gas, which is part of four national highways limited which is part five, the local highways authorities, which is part six, and the drainage authorities, which is part seven. However, I note from the various representations that we received, there were also requests that the schedule should contain bespoke protective provisions for the benefit of a number of other organisations, which haven't appeared in the latest draft and these include affinity water. Although I acknowledge that we haven't heard anything further in relation to protective provisions since their

initial rep presentation at rep. One Oh 30. I'll just continue Network Rail, which who have reconfirmed at deadline for rep for 200 that they're waiting for clearance and still wanted a bespoke protective provision. Thames Water whilst we've had a variety of correspondence from them, we've not actually heard anything back with relation to the protective provision since the initial request at rep. One 163 and Eastern power networks PLC and UK power network operators limited. We've not heard again, anything further in relation to protective provisions since the initial request in their relevant rep. Oh 402 Can the applicant start by providing an update on the progress with drafting agreements and protective provisions and the subjects where they are with them? But if you just bear with me I've just gotten a message that the live stream may have gone down what's the situation are we not and we're not recording?

47:25

Not broadcasting Okay

47:38

shall we give you a minute just in case you can get reconnected?

47:49

What a lie, a lot of destroy attack.

48:22

I'm very aware of the time. And I'm also aware we have another hearing this afternoon. So I am keen to progress in relation to protect versions obviously, Mr. Bloom is here in the room, although his legal adviser isn't. Would it be possible for you to provide an update on everything except national highways until they come back online? Because we've not got any other representatives. And they can always, if they were watching can always be pushed back to looking at the recording. So if I can just ask you to progress with the other updates that would be helpful.

48:59

Yes, Rebecca Clutton for the applicant Of course, I'm going to deal with UK PN Thames Water and affinity water together. They are in the first two instances UK PN and Thames Water. The negotiations are largely complete in relation to affinity water, they are ongoing. In all instances. The proposal now is to have the side agreement agreements provide for the bespoke protective provisions to have effect as between the parties rather than going on the face of the order. So protective provisions are well advanced or substantively complete with all three of those Undertaker's and they will be affected in the sign agreements that we are expecting to complete in it before the close of the examination. Okay, and so from my perspective in terms of writing up obviously at the moment, we have an outstanding objections. So we're in Section 127138 and territory on the signing of those side agreements. Will

49:54

we be getting a letter in to withdraw their or an email in to withdraw their objections? Yes, that's our anticipation And and if we're not in that position, where would we be at the close of the examination if they're still outstanding? Because obviously we have a request that they have a bespoke provision. I

think only Network Rail from memory have actually provided wording. I don't think maybe affinity water may have also provided waiting. I can't quite remember now. What would be the situation then?

50:23

So in relation to the three that I've mentioned, they would obviously be subject to the standard protective provisions. Our loved one. Yeah, exactly. Our position is that they are sufficient in in any case, but alternatively, we could potentially provide proposed drafting from our we found acceptable at a later deadline. I've said, I hope that it won't be necessary. But that's that. So

50:50

I think at the cost of acquisition, hearing one, we asked that if you weren't in position to have completed and agree protective provisions that you submitted a section 127138 case, I think that that would be helpful. And I think you did agree to do that deadline nine, I think it was. So given I mean, hopefully, it's not something that's needed. But in terms of our writing up, there's nothing worse than for an examining authority to have two outstanding objections and Nope. Proposed drafting. So,

51:21

Rebecca, clap for the applicant? I think, madam, the, the short answer is that we'll make sure that you've got the information that you need to be able to resolve that part of your report, I think like deadline nine in relation to Network Rail, they are. We are having we are we have had contact with them over the course of November. The ball is now in their court. We're just waiting for a date for a meeting. But we're hopeful that we will be able to make progress further progress on that matter,

51:49

and Network Rail have made several references in their correspondence to the fact that they need to get clearance in the first instance to move forward. Do you know if they've obtained that yet?

52:01

Rebecca clutton for the applicant, our understanding is that they haven't just yet

52:04

do they have any timeline from whether that will have happened?

52:12

Yeah, Rebecca clutton for the applicant. I mean, they that they have now had the information from us that they need in terms of the impacts on operational land, as I say that sits with them. I think, Adam, you probably be aware that things do tend to move rather slowly. With Network Rail. They do have obviously a lot of a lot of these projects. So we don't have any particular timescale, but we are aware that they are. Their solicitors are actively engaging with ours. So we remain hopeful that that can be resolved ahead of the close of examination. And again, if not, you'll have whatever information that we think you need in order to be able to resolve that part of your report.

52:49

Thank you very much. If I can now if we can add on to national highways limited because the league representative should be back online. Can you just give me an update? Obviously, there is now a protective provision on the face of the audit at part five for national highways limited. So do you want me just briefly to just talk through that. And then if national highways have anything that they want to come back on, I would be appreciative. Yes,

53:13

Rebecca Clutton for the applicant, again, negotiations in relation to those protective provisions remain ongoing. As you've indicated, we put on a deadline for we included the drafting that was acceptable to us. And that did resolve a number of the issues that were outstanding between the parties, including the principle of an appropriate bond or security. We don't have an agreement at this stage on the percentage or the, you know, the what, the figure that will be provided for that bond. And we're awaiting a proposal from a national highways in that regard. But otherwise, we're of the view that the points that are remaining between has a relatively limited in scope. And we are we emailed our solicitors. The applicant solicitor emailed the solicitors for national highways on the 24th, which was a couple of days ago, I think. And we're will await a response on that. But discussions from our perspective discussions remain progressing well.

54:16

So if I could pass over to Mr. B Mr. Corsi, you want to provide me with an update as to where national highways fail there on this matter. Jeremy Blum on behalf of national highways. I would absolutely agree. I think significant progress has been made. The bond is the main outstanding issue. Mr. Khalsa has been in contact with the applicants solicitor so I think it's appropriate for him to to give an update from his perspective in more detail. It's closer.

54:50

Correct. From what the applicant has said and also Mr. Bloom, there are some critical points that remains to be agreed between the parties. But I think from our perspective We certainly feel that they should be capable of agreement before the close of the examination, but we would we would need to make some progress in the next few weeks. And really to that end, we will we will continue to work proactively with the applicant to ensure that those final matters are addressed satisfactory.

55:16

Thank you very much, of course. And can I just check with Mr. Blue more with Mr. Courses subject to that all being resolved? Would you then remove your objection to the protective provision?

55:30

Roscoe so national areas, we would in terms of that, yeah, that section 127 Objection. That's right.

55:36

Save. Thank you very much for that. If I can leave that as an action point, then that that progresses and we keep getting, we get an update as to where we are with regards to that. So I just want to come on to the other statue Undertaker's who we haven't mentioned, because obviously, they haven't submitted an objection to the examination. can you advise whether or not we can expect any additional protective



provisions to be inserted into the draft and filament consent orders to accommodate these Undertaker's or if they're already covered by parts one and part two,

56:09

Rebecca clutton for the applicant, we're not anticipating adding anything.

56:13

Thank you. Okay, so I just want to check if anyone wants to has anything else to add with regards to protective provisions. In which case, I'm going to thank National Highways for their patience with sitting through or everything else we discussed this morning, and we'll move on to Item five on the agenda, which is section 135 of the Planning Act 2008, which relates to Crown land. Thank you very much. First of all, to the applicant for including the status of negotiations with the Crown Estate in CA schedule, which is something I requested at the compulsory acquisition hearing one, a note from the schedule, that engagement status is down as in negotiation. However, since the schedule submit was submitted at deadline three, I note from the updated Crown land plans, which is rep 5010 11, that they're now seems to be only one plot, plot 246 Were the crown holes and interests, which is a category two interest. Although I also note from the book reference, there are all still 12 plots, which is subject to bonobo cansia. Can you just provide an update as to what's happening in relation to crown lands since the previous compulsory acquisition hearing?

57:24

Yes, Rebecca, clap for the applicant. I'm going to pass over to Mr. Walker for this, but it's largely a good news story.

57:32

Steven Walker for the applicant. Yes. The we were waiting to hear back from the government property lawyers. I think last time we spoke, we have now had news from them, they have disclaimed all 13 plots. So they do now sit as a sheet. Which means that they are capable of being withdrawn from the Crown land plans. And that's what's happened and why you're not seeing anything. So

58:01

just just focusing on those rather than the ones what remains. So those are not a sheet. And but I think we still need technically, and I'll come back to you. But I'll just check with our lawyers, that we might need something from the government sisters to say that. I know that when I've dealt with this on a previous examination we had I think it was Burgess salmon submitted something on behalf of the Crown to say that it was able to be disposed of, but we just need to have that paper trail within the examination.

58:29

Yes, madam, if it's helpful, we'll provide that we do have that letter? Oh,

58:34

well, that would be helpful, because then that will close off that issue. And then we won't need to take it forward. So if that could be an action point. That'd be grateful. Thank you. Okay, so with regards to the remaining one plot, which is plot,

58:44

which is 240. So

58:46

346. How could I forget this? Anyone? What's the situation there?

58:50

Yes. So we're, we're in contact with the agents who are acting on behalf of de luck. Do you look have a lease of premises within the plot? That lease is not under threat. It's just been renewed in fact. And all we've done is sent them a consent template letter to secure their agreement to use a CIA powers over the rest of the plot, which is what we need.

59:20

Okay. And are you hopeful that that will be resolved before the close the examination?

59:27

Yes, we all here.

59:30

Thank you. Okay. I don't think there's anything further I want to ask with regards to Crown land. So then we'll move on to item six funding. So following the last compulsory acquisition hearing, the applicant has submitted a new funding statement at deadline five, which is rep 5009. And as per the agenda in a minute, I'm going to ask the applicant to provide an overview of that new statement. However, before I do, I just want to provide some code context around funding from DCA perspective under Regulation two, under regulation of five to haitch of the institute infrastructure planning applications prescribed forms and procedure regulations 2009. If a proposed order would authorise the compulsory acquisition of land or an interest or right overland, a statement of reasons and a statement indicate how an order that contains the authorization and compulsory acquisition is proposed to be funded, are required to be submitted. The applicant has provided both of these the statement of reasons is a s o 71. And a funding statement, as I've just mentioned, was submitted at deadline five. Under the dclg guidance, the applicant has to demonstrate that there is a reasonable prospect of the requisite funds for acquisition being available. That's under Section 122. And it's subsection nine. And the funding statement should provide as much information as possible about implications both acquiring land and implementing the project for which is land is available. The reason is, is that the DCO gives right to compulsory acquire land, and the situation is that the government don't want the applicant to be able to acquire land and they're not proceed with scheme, as the only reason to allow the compulsory acquisition of land is, is it's needed for the scheme. This has been demonstrated amply recently by the recent decision to not progress with HS two where they've already compulsorily acquired the land, which is why we need to look at this quite carefully. I am aware from the information that's been submitted and indeed by comments that were made at last night's open floor hearing that there are ongoing concerns regarding

the finances of Luton Borough Council and the financial implications for the council if they were to proceed with the proposed development. However, I want to make it very clear that this is not something that the examining authority can consider the decision as to whether it is prudent for Luton Borough Council to proceed with investing in the proposed development is a decision for Luton Borough Council and its elected members. The examining authority can only consider whether there is a reasonable prospect that the funds needed to cover the scheme can be secured, and this would include the amount of money needed to cover the cost of acquiring land. I am aware that the applicant is Luton rising. However, one of the methods of securing funding would be through the council securing the funding and lending it to the applicant. So having provided that context, can I now ask the applicant to provide an overview of the new funding statement, and how it now provide the examining authority with a competence that there is a reasonable prospect that the funds needed to secure the scheme and cover the cost of land acquisition could be secured.

1:02:36

Rebecca Clutton for the applicant? I'm in a moment, Madam going to pass over to Mr. Turton in relation to the funding statement, and to give you the overview that you've sought, but I had intended myself to just pick up on the overview that you have just provided. And just to really draw that distinction between what the guidance requires in terms of the funds for acquisition, whether the reasonable prospect required, and the funds for the remainder of the project, the implementation of the scheme itself, and about the fact that the guidance in that in that circumstance requires as much information as is possible. And of course, if we didn't have compulsory acquisition, no information at all be required, as is obviously the case in normal planning applications. But I think, madam, that's, that's very helpful that you've made clear that the examining authority is aware of that distinction. And obviously, also the helpful indication that you recognise that Luton rising, is the applicant and that this is not a, in that sense, a council or public sector funded scheme, albeit that one of the options for securing finance may be securing finance through the council. So with that context, I'm going to pass over to Mr. Turton who's going to give you the overview that you've thought, and actually, but just before I do, Madden, there were some points that were made at the open floor hearing last night about the accuracy of some of the information and written in terms of the concession agreement, income and the availability of that, I suspect, that's a matter you will want to deal with potentially in writing. Okay,

1:04:07

I've got a couple of questions about the concession agreement. Because obviously, there's quite a lot of the funding is reliant on Ali, I just want a bit more of an understanding about that. And so it may be that it's relevant at that point to bring that back up. Or conversely, I was assuming that you as you indicated last night, you'd be providing written comments on the matters that are discussed at the OpenFlow hearing. And that obviously included various comments on the concession agreement, and how it all worked. So maybe the best thing to do for now is just to park that matter. Okay. And then what we'll do is when I come to my questions, you can either just say, well, it will answer that all as one whole thing and then you've got all of the information in front of you. We may be able to give me an answer now and then back that up with further information in writing.

1:04:50

Thank you, Madam Masis. Rebecca club for the applicant. I suspect it will be the latter I mean, we are keen to we've got a response. We're keen to provide a response. I'm just conscious of the time that's available

1:05:00

is fine. I am aware. I mean, in terms of the funding agreement, I am also aware that of the time, there are quite a lot of technical questions. And as I said right at the beginning of the opening the hearing, it may well be that some of those are better addressed, and easier to understand when you have it written down in front of you rather than explain to you so if you feel at any point, any questions I'm asking are worthy of a written response rather than response. Now, I'd rather get the right response rather than the wrong response. And have that just a little bit later. But then obviously, you know, the question that we were wanting the answer to, yeah. So that's very helpful. Mr. Chen, thank you very much for your patience if you'd like to proceed. Thank

1:05:39

you, Jonathan Tosun for the applicant. So the enhanced funding stem that we've submitted, built on the original funding stem in response to the comments that were helpfully provided at the earlier hearing, we have provided a more detailed breakdown of the cost of compulsory acquisition and the timing of those that expenditure both in current prices and in outturn cash terms, and those can be seen in table one and table two, that falling stem are now confirmed how the applicant will meet these costs and when and that is in 2.26, and 2.27. It provides a more detailed breakdown of the cost of implementing the overall proposed scheme and the timing of that proposal expenditure in Table three and table four as far as we can, at this point in time recognising the time in the future, when particularly the second stage of the proposed development occur is planned to occur. We may provide more details about the cash flows projected for the expanded airport as a whole as a business line, the business is paying for its own expansion, if you like and these are damaged set out in Table five. And these demonstrate that the project is more than capable of being funded from the net revenues generated by the airport as a business itself as significant surpluses generated quite significantly more than the cost of the project. We've then added in a new piece of analysis demonstrating that it's alive and active investor market for airport expansion projects and sets out feedback from a little bit of soft market testing with potential investors for this kind of scheme as well. And lenders. We've confirmed that the preferred intended approach particularly for delivery of phase one, and we've is sat with the operator, we're going to Luton, London Luton Airport operator limited. And that's in 4.3 point one and we've have a new letter of support from that operator confirming its commitment to deliver that stage one of the projects within the current concession timeframe, and how they would raise finance for that and a little bit about the background of their credentials in the ability to deliver a project like this as well. We've put a letter of support in from Arup myself from financial advisor just explaining why who I am my experience and how I'm qualified to make these judgments in my professional opinion. And we've included a letter of support as well now from from Steven from CBRE setting out against similar natural experience, and how the valuation work has been undertaken for CA. So that's the overview. Just moving on to the second point that was made was a review of the resource implications for both acquiring the land and implementing the project for which the land is required. So to summarise, the resource implications of acquiring the land are approximately 100 and 10 million pounds in 20. In current prices, which translates to about 171 million and out term prices using current forecast for inflation. And to highlight when we inflate the cost,

we're not coming up with assumptions we're using publicly available forecast by the OPR and ones for these purposes. Of that 171 million we fought anticipate that about 158 million is actually anticipated to arise after 20 to 33. So after the end of the current concession, with 13 million due to arise within the term of the current concession in outturn terms of that 30 million that's expected to arise within the term of the current concession only 2 million to 3 million of that is expected to arise within the next eight years are effectively before 27 years before 2030. And the applicant as confirmed that it will fund these costs from the concession fees that it generates from the airport and the subsidies that it generates. And I'd like to draw a little bit of attention at this point that will come later that the applicant has other revenue streams beyond the concession fees as well that feed into its financial capacity. I think Rebecca will comment on that I will provide some further information on that in writing letter. But just to give an idea of magnitude and a sense of sort of scale here. Based on the assumptions and the growth pattern that we see, we see also growth in passenger numbers and growth in the revenue per passenger based on effects of inflationary growth on pricing and concession fees. We're anticipating our forecasting that the applicant will generate in the region of 600 to 800 million pounds in the period to 2030 to the end of the current concession in income. The Phase Two costs then are expected to rise from 2033 Onwards and will be spread out over the period, we anticipate the last payment potentially occurring in around 2046. So we're talking quite a long time into the future in quite a long profile of the payment of this overall 170 1 million pounds. And again, the intention of the applicant is that those costs will be met from either the concession fees generated between now and 2033. And beyond and or from finance that's raised commercially to support the overall capital and construction cost of the development in the future when we have when the time is right to start to raise that kind of money and understand exactly how it will be delivered.

1:10:54

The the overall results implications or costs, if you like of implementing the project, including the Lund are about 2.6 billion in current prices, over the whole duration of the term. And that translates to about 4 billion pounds in outturn cash prices after adjusting for inflation using best available forecasts in the public domain at the moment for inflationary assumptions, which of course are, as we've seen in the last couple of years, you know, we do our best but it's some of this stuff is very, very hard to predict. And of that 4 billion, about 3.4 billion are actually costs expected to be funded and met by the airport as a business itself. And about naught point 7 billion are effectively cost funded by third parties in relation to third party projects related and ancillary to the main development itself for things like solar power, things like fuel, farm, etc. And that's all detailed out in the funding state, we've separated out where the different things sit. Of that 4,460,000,000 is anticipated to be incurred before 2033, which is effectively the outshone cost of phase one in total, of the total 4 billion cost of implementing the whole project, around 416 million of that is anticipated to be incurred or arise before 2033. So in effect, within the timeframe of the current concession, and the rest of that 3.6 billion arises beyond 2033. We have the expectation for the foreigner and 60 million is that that is going to be funded by the operator or financed by the operator on the ground, based on reaching acceptable commercial arrangements with the operator for an appropriate adjustments and concession arrangement to enable that to happen. And I think in the support letter in Appendix C, there's quite a little bit of detail from the operator confirming that those negotiations are going well in place and the operator is committed to delivering that expansion for the applicant as well. And the 3.6 billion affected with the cost of delivering the second phase will be financed as part of the next arrangement for how the airport is taken forward and run as a

business over the next for purposes of our analysis. We've assumed 40 year term, to work to work that through for the financial viability, and that's set out in Section 4.4. It sets out the preferred option of the applicant and alternative ways that you might do this, there are more than one or two ways to sort of deliver a big project like this over time. So move just moving on to the whether adequate funding would be available to cover the cost of CTP within the statutory period following the draft DCR if the application is approved, and I think the key points in this, for me are about the sense of scale of the requirements of the CA costs relative to the level of income and cash surpluses that the applicant is able to generate right now. So for example, we the Applicant derives a basic income stream from the airport. It also derives income streams from other areas such as rental income and ticketing, income, etc, which amounts to total income from the airport of about 60 million this year, plus another 12 to 15 million from other sources. So the applicants expected income this year is about 75 million pounds. I've said I've mentioned before, and I'll try not to repeat too much, but in the period between now and the end of concession we expect that the applicant will generate something like between 600 and 800 million pounds based on best estimates available today, which it can use the surpluses of which to meet its its ca liabilities as they arise. And I'm noting that these are forecast to be in that period of time 13 million against the 618 million pounds that the applicant is expected to generate in that period of time. Thank you.

1:14:51

Thank you. So I'm just gonna start off with a couple of clarifications. And the report refers to getting rising getting up 40 concession free fee from London Luton Airport operating limited. And then it sets out a variety of different amounts, it seems to be inferred, particularly in paragraph, one point 1.8 that is linked to passenger throughput. We're just trying to understand is it a combination of a fixed fee and a fee based on passion to throughput? IE does it change? Or is it fixed? And also, looking at it, looking at it from the perspective of obviously things like COVID? Is there, a fee won't go underneath? So regardless of whether there's any throughput of passengers or not, with the concession fee still be paid? So can you just explain that to me, that'd be helpful.

1:15:39

Sure. The concession fees are linked to passenger throughput. So they're effectively a fee per passenger using the airport. And in that sense, there are risks of shocks that we had, for example, when COVID hits the pandemic hit. There's no underlying fixed elements here that it's driven by passenger numbers. So

1:15:59

it's just passenger numbers. It's not a combination of anything. And the next question was for Luton rising, and I realise you are eating rising, but you might not be the right loot and rising. So throughout the various application documents references made as to what this concession fee is used for. And again, we had this touched upon last night. And this may again, be back to the point that you're going to come back to me in writing about it. So for example, there's an annual payment to the council, there's funding for the Noise Compensation programme, the charitable contributions and the existing community fund. I just like to have a breakdown of how that concession fee is used, if it can find anywhere in the current application document or if not, could a basic breakdown be provided just so

that I can understand what calls there are on that money already. And therefore what would be available to finance the project.

1:16:52

Rebecca Klein for the applicant Yes. Rebecca clumps the applicant, Madam Yes, we that is something that we can provide. What I was wanting to give you an indication of today, though, was the free cash flow, but with the free cash that we have available, following the those expenses having been incurred. And that relates to the point that was made last night at open floor at the open floor hearing where it was indicated that there was only around 3 million pounds of free cash once the commitments, Luton risings, other commitments had been accounted for. And the position in relation to the position in relation to that is that we that it's wrong. Where we are at the moment is this year's free cash, following surplus cash following the expenditure is anticipated to be in excess of 10 million pounds. And that's a number that's forecast to increase over the years coming for two reasons. Firstly, the increase in passenger throughput associated both with the obviously the consenting of the P 19. application. And then hopefully also, if we're successful in this application, this increases associated with passenger throughput increasing for this application. And secondly, also, as I think Mr. Turton also mentioned, increases in the income per passenger associated with RPI. And you might say, as I asked, my first question I asked well, as well, are the costs not also increasing by that amount so that there's there's a net neutral effect? The position is no, the costs are broadly fixed. There is obviously some that are affected by inflation, but they are, they're broadly fixed, which means that we do get a real increase in cash as a consequence of RPI related increases to the income per passenger. Now, this is information that comes from current year accounts, so financial year 2023 to 2024. And so they won't show in our accounts published with companies house until the financial year 2024, which is obviously the financial year closing after the close of the examination. I do if it would assist have Mr. Nick Platts next to me, Mr. Perhaps, is the CEO of loot and rising, and he will be able to confirm the information that I've just given to you if that would be of assistance. Before I see whether you do want, Mr. Platts, to do that, what I would say as well as therefore, that free cash flow over the course of the next 10 years, is anticipated to be in excess of 100 million pounds, which is obviously well in excess of the 13 million that we've identified in terms of compulsory acquisition costs. And in fact, you will note that even if the free cache had only been 3 million pounds per annum, which it's not but if it had been that, and that also would have been enough for the phase one, compulsory acquisition costs that we've relied upon. So Madam, would it be helpful for you to hear from Mr. Platts?

1:20:06

Possibly, but before I just want to chemical clarifications on the information you've just given me, so the 10 million was for 2023 24, not 2223. Yes, that's just to enable me to understand the context of that. Given it's linked to passengers, what were the passenger numbers for that

1:20:27

Rebecca clutton for the applicant that I will have to check for you. Maybe that I can check that now. Okay. And then sorry, Rebecca, clumsy applicant, madam, we think that might is probably on 17 million passengers per annum.

1:20:45

Okay. If you could clarify that as an action point. I'll write it down for now. Yes, you've clarified that be grateful. Okay. Does Mr. Papp want to add anything to the conversation?

1:21:01

Thank you, Madam Nick Platts, managing director or CEO of Luton rising? Yes, I agree with with Mrs. Clinton's comments, I just add that car, the FY 20 to 23. Accounts are going through audit at the moment, there'll be published with Companies House. As previous accounts are all published. We hope to have that approved by the Board in January for publication. I would say also in FY 2324, which runs through till the end of March of 2024. calendar year, we have also made a provision of 10 million pounds for compulsory acquisition. And so that will appear as a liability in current financial year, which won't be reported until towards the end of 2024, early 2025.

1:21:53

So as an action point going forward, if those if that report is available before the close of examination, I mean, as it's getting a bit tight, because those examination closes on the 10th of February. But if those reports are published, would it be possible to get a copy of those submitted into the examination. And then, again, just to in a very simple table, if I could have the information for the last five years, prior to COVID, because obviously COVID was a blip, particularly with regard to the concession fee. So I don't think it's fair to ask for that information, because it's not going to give me an indication potentially moving forward. But if you could just provide a breakdown of what the concession fee was, for the five years prior to COVID, or when that the airport was last operating normally, and the passenger numbers, so again, I can just get an understanding of how that works. And as I said, at the start of the question, I really like to understand, you've obviously mentioned that you have 10 million free cash flow as an outturn of the concession fee. But I'd like to understand, you know, what the calls on that concession fee are? So there's an understanding of what that free cash flow would be. And then the other question in relation to this is, can you advise as to whether the amount payable to the council from the concession fee is fixed or is variable?

1:23:22

At a nick Platts, for the applicant? The we have we run a five year financial plan. And the contributions we make to council in a number of areas, one of which is a dividend, if payable, but the rest is in other costs, which we can break down but essentially dividend that I'm interested, yeah, so we haven't paid a dividend since COVID. And we're rebuilding our cash reserves following COVID. And when we have sufficient distributable reserves, then a dividend will be paid again. And I think we're going through review constant review of that. But I'm not anticipating a dividend payment for another couple of financial years. So

1:24:05

the agreement that you have for the concession fee is that normally there will be a dividend out of it, but due to the honesty and the circumstances of COVID, that's suspended, but is there anything that requires you to pay an amount every year to the council in any of your agreements?

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Nick bites for the applicant? Yes. There are dementia loans that were obliged to pay for. We also pay rent. And there is a contribution to the voluntary community sector within the town and surrounding areas. So they are baked into our annual costs. It's the dividend itself, that is impacted by the writedowns following COVID and the rebuilding of reserves. So once we're in financially, once we're financially able to release some of those cash reserves, then a dividend will be repaid but there's no obligation for for an annual Will dividend because that wouldn't be prudent as a private company we need to maintain a positive positive balance sheet.

1:25:08

Okay, thank you. And just come on to the information provided by CBRE with regard to the property costs estimates. I just want to query rule two talks about the value of land to actually be acquired. And that standard is 32 million and but I note from later in CBRE is letter that that this also allows for 20% contingency for risk. But paragraph 2.1 point one of your report says that the majority of the land required is owned by either the applicant or its shareholder, Luton Borough Council. So I'm just questioning why the figure for land acquisition is so high given you don't actually need to acquire much of it.

1:25:51

Rebecca clutton for the applicant? I think this is a question that needs to be answered by Mr. Walker. So we're just going to do a little bit of musical chairs for you again.

1:26:09

Steven Walker for the applicant. I'm just trying to think how easy to deal with this. But we we talked earlier,

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very, just to go back to my previous point, this is quite complicated stuff. If it's easier for you to put it in writing, it'd be easier for me to look at it in writing, then feel free to say that I'm happy for you to give me an explanation. But obviously, we're talking lots of different numbers. And sometimes it's just easier to look at that in written format. So if you feel it would be better to provide the answer in writing, please feel free to say that don't feel obligated to answer already. If you think it would be better to submit an app for

1:26:46

Steven Walker on behalf of the applicant. I'm quite happy to answer it simply, it's simply the we talked this morning about properties that were within the compulsory acquisition. freehold value investment value of those properties is is fairly significant. So that would account for a significant amount of the cost in the in the freehold Valley.

1:27:12

And this is probably another question then for Mr. Walker. Rule six is down as compensation for disturbance. Can you just clarify what is meant by this? For example, does it include noise? And if it does include noise? Is this the funding for the Noise Compensation measures? Or is that something different?

1:27:29

Steven Walker for the applicant? It's something different. Okay. sturb ances? Is the compensation payable to those that are displaced as a result of the compulsory acquisition costs? It's things like moving fees, that kind of thing. Correct. And reimbursement costs, and loss payments fees? Okay, thank you.

1:27:58

Next question might have changed slightly on some of the figures that I've just been given. But this was based on my reading of the financial statement table two in the financial tape. Table two in the financial statement, takes the figures and includes forecast out term prices so that for phase one at today's price, proposed development costs 10 million, and the forecast forecast out term prices 14 million, but I think it's just been referred to as 13 million. So there will be a 40% difference. Can you provide some further detail on how was this figure was calculated? And what assumptions regarding interest rates, inflation, Labour material costs have been used? And why have you chosen this method method? And what other methods could have been used? And why would they discounted?

1:28:48

Johnson term for the applicant just having a little look at table two now, just to make sure I understand and the phase one costs in there and that profit until to add up to 13 million. This is set out not 14, I think I'm getting my arithmetic wrong. And the those costs have effectively been taken from the 10 in real terms and inflated to out term prices using publicly available information. So forecasts by the onr. They say the OPR and ons on expected inflation in the market as the best forecast that we find available.

1:29:31

Then just because it's gone to later on in the report, you've chosen a 50 year payback period. But there's no explanation as to why this isn't an appropriate period to just provide further detail.

1:29:46

Yeah, Jonathan says and for the applicant again, we have assumed a 50 year total period for modelling the financial viability of the airport as a business in total that's to allow for the 10 years left on the original concession then assumptions that this next concern Shall what comes next in terms of airport operations will run for about 40 years, that is consistent with the existing arrangement that's in place today where that was originally left for a period of time and then extended. So it'll be in the region of 40 years in total. And that's a fairly normal length of time for an operation of this kind of scale to let a concession or contract for so it's just based on experience and market norms.

1:30:24

I'm really conscious that we need to finish fairly soon. And know that we have a break before the next hearing, because many of us will also be attending that one. I'm just coming quick question, because I think quite a few that can potentially be rolled over to written questions or action points, would you prefer them as action points, because then you get them slightly earlier than written questions.

1:30:48

Rebecca and for the applicant? Yes, that'd be helpful. Thank you.

1:30:50

Okay, include those as written questions. So that was, I heard you have some more detailed ones. But again, they're just delving into the figures. So I think they'd probably benefit from written responses rather than me orally examining them now.

1:31:02

I think, Madam just on that the only thing I'd record club and for the applicant, the only thing I'd say is that just in terms of the timing to respond to them, obviously, appreciate that. Generally, it was going to be deadline six. If any of them require a little longer, we'll just have to let those that are

1:31:18

I would have normally rolled over to a written question or indicate they weren't they can come in when the written question responses come in. That's very helpful. Thank you. That's fine. So just want to check if there's anything anyone else wants to raise with regards to funding Mr. White?

1:31:32

Thank you, Pete white friends Regional Park. I'll make this quick because we'll put it into I think as well. No disrespect intended to the committee. Back in the real world. There are three people sitting in this room who live in Luton, we know what it's like and the finances in Luton being told we've never got any money for anything. But that's by the by concession fee income as a clarity for the inspectors. It's not just passengers. It's also cargo throughput as well. I believe there's a fee paid per every 100 kilos of cargo. But that's difficult to put into context when you work out how much per passenger because you don't know why that is. Second point, the non payment of the dividend to for the last few years in the foreseeable future. The dividend is what goes directly to council services it's not interest on the loans it's it's a figure that's arrived at by the board of Luton rising who are all Luton councillors try working out what the formula is because it doesn't appear to be one. Whilst there has been no dividend paid for the COVID area 45 million pounds was paid by to the airport operator under the pretence of keeping people employed at the airport, because otherwise they would have to be laid off over COVID. I think that needs to be taken into context. The fact that in layman's non flowery speak, will make people redundant if you don't give us any money, but that's the thing. The third point is the magic dividend. We come back to the dividend. One thing we would suggest is when all these figures are counted about of how much money we've got to spend the dividend, the charity is not a problem the tax you got to pay the dividend is what will suffer. So we would like to see in this agreement, a guaranteed percentage dividend paid each year irrespective so that the counts the residents of loot and the true shareholders of the airport. The poor people in Luton are guaranteed an income every year. And it doesn't just go to the bankers and the people who loaned them the money. And the fifth, very quick point at the fourth very quick point sorry. The one thing that wasn't mentioned in costs was staff costs because all the loot and rising staff are technically employed by the council so they pay the council's for their services. If you look back through recent years, once again through COVID You'll see vast amounts of frontline staff schooled in a lady's outsourced to save money. I believe and I may be wrong in this I believe in that period of time, the staff cost of loot and rising has gone up 96%. So you have public facing jobs

that can make a difference to people's lives being outsourced or got rid of. But an organisation that is supposedly whatever it is, costs go up that much. And the very final point because obviously your time a return of the money as demographic spend, or people going through the airport. You spent time at the airport, you've seen the nature of the flights that goes through the airport, no disrespect for any of those people. It is the cheaper end of the market. The Democratic spends would be if I can go into a shop and buy a sandwich for three pound in town. And I go into the shop in the terminal and it's six pounds. I'm going to buy the one for three pounds I was in town and bring it with me. So the planned dependency on demographic spend is a fatal flaw. And another fatal flaw which I would just like to raise as one final point. When an airline puts more flights through an airport, it doesn't pay what it already pays, it pays less. So it will say, I've given you, for example, X million passengers, and I pay you five pound a passenger, if you want y million passengers, I'm only going to pay you three pounds 50. That's what commercial airlines in aviation have done fit all the time. So to say that, because we put more passengers through will give us money to pay these things that we're going to do is flawed. In the real world, like any other computer based exercise, it is flawed. And once again, no disrespect. But one of the one of my favourite saying is no, sorry, it won't go through that. But the thing is that you can't. You can't get into debt, hoping that you will get by the means of getting out that you or I or any member of the public would not be allowed to do that. This scheme appears to want to do that and who will suffer when that fails back in the real world. That will be the residents of Luton that will be the poor people in Luton that this project is supposed to be alleviate out of that poverty. Thank you.

1:36:31

Thank you very much, Mr. White. Rather than asking you to respond now, Mr. White's mentioned he'll be putting that in writing at deadline six. So if you could provide a response, I, it would be helpful if you could provide response with the written questions just so we can crack on with with this issue. Thanks. So if no one else has anything else to raise with regards to the funding statement, the rental items on the agenda relate to the purposes of proposed compulsory acquisition with regards to the Human Rights Act, and also the duties under the Equality Act 2010. I propose to roll those over to written questions because it was just asking for some further updates, because you have already provided some written responses on these matters. But I just wanted to delve a little deeper in particular with regard to prospect day nursery, but I'll do that in writing. So unless anyone has anything on specific agenda items I'm gonna have was back seven and eight. Then I was proposing to close meeting and I'm going to hand over to Miss Davis to do that now.

1:37:43

Thank you. We will summarise the action points and publish those as quickly as possible on the national infrastructure website. We haven't been notified that anyone wishes to raise any other business that's relevant to this hearing. But before we close, can I ask if there are any other matters that any party wishes to raise? So if there's no other items, may I remind you that the timetable for this examination requires parties providing the post hearing documents on or before deadline six, which is Friday, the eighth of December 2023. May I also remind you that the recording of this hearing will be placed on the inspectorates website as soon as practicable after this hearing. The next event for this application will be issue specific hearing seven on traffic and transport matters which is going to be held this afternoon. This is a blended event which will be conducted both online and in person. The agenda is available on the project page of the website and is referenced ev 14 001. And I just like to take the

opportunity to highlight that the meeting will start at two o'clock. If you're intending to observe this afternoon's hearing, then you'll find a link to the live stream on the project page of the website. If you're proposing to participate virtually then you'll need to use the new joining link for that meeting that you should have already been sent. If you hadn't received it and are registered to participate then please can you contact the case team as soon as possible after the close of this hearing? Before we close I'd like to thank all of today's participants for their time and assistance will consider your responses carefully and they'll inform our further written questions. The time is now 1330 and this compulsory acquisition hearing for the proposed London Luton Airport Expansion is now closed