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FULL TRANSCRIPT (with timecode)

00:00:05:18 - 00:00:37:20

It's now 12:10 and time to reconvene this compulsory acquisition hearing. Before I turn to Mr. Linus to respond to agenda item five, we've reviewed the agenda during the break and due to time constraints. Unfortunately, it doesn't seem that we're going to be able to go through every agenda item. What I therefore suggest is we finish agenda item five. Move on to agenda item six.

00:00:37:22 - 00:01:01:14

And then if time is permitting, I will look at the other agenda items and ask for any high level comments and I will put any questions in writing. I do apologize for that, but as you're aware, we do have to finish by one in order to, uh, have the open floor hearing this afternoon. So if I turn to you, Mr. Linus, for the response to the agenda item five comments.

00:01:02:15 - 00:01:34:15

Scotland for the applicant. Thank you very much, ma'am. I'll pass on to others, but just a few brief introductory comments from me. Um, as far as Mr. Richard's comments are concerned, um, I understand we've already spoken to Mr. Richards this morning. We'll continue to do that. And we hadn't received the meals of the correspondence which he was referring, we think, because they were sent to a very old email address and not current ones. But that doesn't matter. Now. We've established a point of contact and will be speaking with him, uh, immediately beyond what we have done already this morning.

00:01:35:03 - 00:02:27:12

Um, in relation to Gatwick Green, I don't think we need to say too much more beyond noting that National Highways are taking that away. And we we hope there will be some progress on ensuring that that agreement is forthcoming. As we've said, discussions with Gatwick Green have gone well. We simply wait for this matter to be taken away by by National highways, but we're hoping that can be resolved. As far as Aurora is concerned. I'll leave that to others. In relation to Marathon Asset Management, I think the broad point that's important to make is that we hear what has been said at this morning, and we're hopeful that insofar as solutions are being referred to by Marathon Asset Management today, we agree the solutions are in prospect, both in relation to the issue of land TEC.

00:02:27:14 - 00:02:58:25

Ongoing discussions are taking place on a solution we're hopeful that can be resolved in relation to noise as we understand it. Our noise consultant met um, uh, with um, uh, Marathon managers consultant team last week, and we need to check whether the information that we've heard about today aligned with our understanding of what came out of the meeting last week, but we will do that. We have taken some actions away from that meeting. We're looking at noise assessment issues generally.

00:02:59:07 - 00:03:34:11

Uh, those discussions have been progressing well. And we we will be providing more information through our noise consultants, subject to checking the information that's been mentioned. Um, this morning, um, on access, we're confident that a solution has been found. We're already working up a concept design solution which will be provided back to, um, marathon management. Um, as soon as, as soon as possible. Again, we're hopeful that that can be resolved on the Hopper bus. We are meeting with the bus operator next week to understand any concerns that arise out of that.

00:03:34:13 - 00:04:06:13

And again, they can feed into wider, um, wider discussions. Um, we're also, I think, awaiting some, some, some financial information relating to business loss. And we'll pursue that, um, with um Martin Marathon Asset Management um, next week. So overall, we think progress is being made. Um, we are aware of the timescale that has been mentioned, uh, by Mr. Clayton, um, earlier on, but we're confident that we can achieve an agreement for the reasons we've given.

00:04:06:15 - 00:04:11:29

But sorry to could I just ask the solution you refer to is that outside of the order limits?

00:04:15:25 - 00:04:16:10

Sorry.

00:04:19:07 - 00:04:20:07

Okay. Wait.

00:04:24:06 - 00:04:24:21

Okay.

00:04:26:18 - 00:04:58:06

Yes. Um, Scott Leonard for the applicant. I think one option is not necessarily the option which is under consideration may be very, very slightly by a couple of meters outside. But what's being discussed is the provision of rights over that land, uh, by way of agreement to deliver the solution. Thank you. Thank you. Um, I don't think I need to say anything, uh, more in Marathon Asset Management at this stage, as far as national highways are concerned. Um, the book of reference point. I don't think we categorize that as any forms of error on our part.

00:04:58:08 - 00:05:33:21

We followed land registry information. We've just been provided with more detailed information, and we'll update the book of reference accordingly. I'll have others deal with other points raised by National Highways. As far as a sorry sorry Craig Council point is concerned. Um, obviously the starting point here, as far as access is concerned, that we can't justify providing an additional alarm at the roundabout for another development. Um, uh, and it's not part of our project to essentially deliver works for another scheme.

00:05:33:23 - 00:06:05:27

But that said, our position is it's not the intention of this project to prevent that other allocation coming forward. And, um, we are liaising with Surrey, sorry, County Council at to, uh, come up with a solution which avoids any um, which avoids any severance. And we're also discussing with them, uh, construction sequencing to address the second point that Mr. Bedford addressed, heads of terms are, as I understand it, with, uh, with the council.

00:06:06:06 - 00:06:17:23

And we're hopeful that that can be, um, uh, progressed. Um, any other matters as far as those parties are concerned? I leave to others.

00:06:21:19 - 00:06:22:04

So.

00:06:27:12 - 00:07:00:06

Right. Microphones for the applicant. And just to run through the aurora matters. Um, there are three principal areas that we just want to respond on. And the first is plot one to sorry, plot 1 to 0, owned by H5 limited. And, um. Effectively what we're we're doing. The concerns have been raised regarding

potential disruption during construction works, particularly with in respect of maintaining access to the site. And we're working with Aurora to address these concerns and mitigate them with heads of terms.

00:07:00:08 - 00:07:40:12

Discussions are ongoing. The sort of things that we're talking about are, um, using endeavors to maintain access to the building, um, using endeavors to mitigate the impact of the proposed works generally and limit the closures of the access road wherever possible. Um, and post scheme. Um. Looking at the control down rose looking to provide back the freehold of land, if indeed that freehold land is taken by the proposals. Um, the second point is a good limited which is plot for 49244964539 and 4544.

00:07:41:09 - 00:08:18:09

Um. The um Aurora are the freeholder of a property called Schlumberger House. And at this location, we're proposing to acquire freehold land to, um, facilitate the extension of the highway works. Um and a temporary site compound adjacent to facilitate those works. Um, again, we are looking to try to use best endeavours to maintain access at all times to reduce the impacts of the works. Um and um. Reduce the time that they they take in order that we can we can facilitate those works as quickly as possible.

00:08:19:09 - 00:08:44:16

And then in the third point in respect of plot one 209, Aurora Services Manager, sorry, Aurora Management Services Limited and Aurora SLG limited are the owners and leaseholders there, and it's the Premier Inn and the Sofitel that's already been mentioned. Uh, the works in that area, um, are subject to detailed design, and we're in detailed discussions and they're ongoing with Aurora.

00:08:49:25 - 00:09:22:01

Uh, Darren Atkins for the applicant. Uh, just to address one point raised by National Highways in terms of the nature of the works in plot one, two, four, two a so these, uh, this plot is primarily required in order to deliver, uh, construction activities associated with work number 36, including specifically, uh, enabling the scheme to, uh, undertake any potential works that may be required to a drainage pipe to Gatwick Stream, uh, the exact location and condition of which is to be confirmed at the detailed design stage with appropriate site investigations.

00:09:27:11 - 00:10:04:18

Thank you. Um, if nobody else has any other comments on that agenda item, we'll move on to agenda item number six, which deals with the acquisition of statutory undertakers land. Um. I've reviewed the updated land track. Right. I'll start again. I've reviewed the updated land rights tracker submitted at deadline three. Um, I would like the applicant to provide a very high level overview of how negotiations with statutory undertakers are progressing. And also, I'm aware that there are some bespoke, bespoke protective provisions that have been requested.

00:10:04:20 - 00:10:23:12

If you could also give me a summary of those particular negotiations and why they are being requested. I do have a list of those that I have that have requested bespoke provisions, but I'm assuming you have that information as well. Thank you.

00:10:23:14 - 00:10:26:16

Scotland applicant allows me to pick this one up, please.

00:10:28:11 - 00:11:03:23

So my friends, on behalf of the applicant, the applicant has identified a total of 22 statutory undertakings affected by the scheme proposals. The applicant began consultation engagement

regarding protective provisions with all statutory undertakers in May 2023. As a result of the engagement, active discussions are ongoing with a number of statutory undertakers in respect of protective provisions and, where appropriate, site agreements. A number of statutory undertakers are yet to respond to correspondence in relation to those protective provisions, and the applicant is continuing to reach out to them, um, to elicit a response.

00:11:03:25 - 00:11:14:26

The applicant has agreed protective provisions with one of the statutory undertakers so far, but remains optimistic that we can agree and progress protective provisions with the remaining statutory undertakers before the end of examination.

00:11:18:26 - 00:11:29:20

Yeah. Okay. So, um, my friends, is the applicant, um, the specific agreements that we are joined to progress and the Environment Agency, um, and, uh.

00:11:31:24 - 00:12:17:06

The discussions are ongoing upon those with the wanting to make changes to their standard, effective positions that they've agreed previously. Um, so petroleum and there is protective provisions received from Esso on the 4th of April. And there was, um, the applicant's lawyers for review, um, National Highways. The latest draft was sent to BDP, um on the 15th of February, 2024. Um, and then received back by way of comments uh in April 24th network Rail uh latest drafts have sent to Dentons on the 29th September and then, um, a markup is a further markup has been sent to Dentons on the 29th of April.

00:12:18:15 - 00:12:48:27

Um SES water have not requested any bespoke provisions. Southern Gas Networks. The markup returned to Azul Goddard on the 29th of April, 2024. Thames Water. The proposed bespoke protective provisions have been sent to Eversheds Sutherland on the 29th of April and the UK, with the protective provisions are with HSF and the applicant's lawyers for review, and are awaiting confirmation from the extent of assets from Ucn.

00:12:49:06 - 00:13:00:07

And finally, um West London um Pipeline Limited, or BPA and mark up has returned to feel Fisher their lawyers on the 29th of April, 2024.

00:13:01:22 - 00:13:19:28

Thank you. Um, just as a very small matter, um, in terms of. So, um, the land rights tracker may need a little bit of a review. I think one of the text boxes makes reference to bespoke provisions being requested, and another one says the not so maybe just just a review at your next stage, please.

00:13:20:26 - 00:13:21:12

We'll take that away.

00:13:21:18 - 00:13:30:15

Thank you. Um, can the applicant confirm whether it's anticipated whether any further protected provisions will need to be included within schedule nine of the draft DCO, please?

00:13:43:28 - 00:14:00:24

Scotland is for the applicant, as I understand that we're not, um, uh, we don't consider that any additional protected provisions, uh, will be, uh, will be needed. There's a number of side agreements being negotiated, as you'll understand, but we're not anticipating any further protected provisions.

00:14:01:19 - 00:14:19:10

Thank you. Whilst I note, you know, you are hopeful that all negotiations will be completed in the event that agreements are not reached with the statutory undertakers, would the relevant tests for the exercise of powers pursuant to sections one, two, seven and 138, the Planning Act still be met in.

00:14:19:26 - 00:14:59:14

Scotland if the applicant. Yes, we consider that the test would be met. Um, the standard protected provisions, we say, would provide the appropriate level of protection to all undertakers, uh, regardless of whether agreement is reached. Um, the provisions and schedule nine include a range of protections that I won't go through now, but we can set out in the notes for the for the hearing that include, um, where a public right of way stopped up, um, a utility undertaker has rights or apparatus and on or under the land affected, we must ensure that the undertaker enjoys the same powers and rights and the respect of that apparatus as did before.

00:14:59:22 - 00:15:33:15

The right of way was stopped up and carrying out protective works to buildings. We mustn't obstruct or make access to any apparatus any less convenient, and we're not allowed to acquire any apparatus except through agreements. So those are three examples of a range of protections within schedule nine. And we say those provisions protect and the undertaker has assets or rights that may be affected by the delivery of the delivery of the project. And we say that the tests under section one, two, seven, relating to the detriment, the undertaking, as well as those under one, three, eight for those reasons would be met.

00:15:34:26 - 00:15:40:02

Thank you. I understand National Highways wish to, uh, make representations on this point as well.

00:15:40:22 - 00:16:01:21

Thank you ma'am. Clerk for National Highways. I only have a brief comment on this. Uh, National Highways is a statutory undertaker. For the purposes of the Planning Act 2008, we are negotiating protected provisions with the applicant, and that we are quite comfortable with the way progress is being made. Uh, we recently issued a draft back to the applicant side, and we're hoping to hear back shortly.

00:16:03:18 - 00:16:16:27

I think it's fair to say that the material provisions are now broadly agreed, but they are still subject to agreement. I'd also say that the recent updates have actually been made by National Highways, in line with their standard protective provisions that go across all discos. Thank you.

00:16:17:23 - 00:16:22:06

Thank you. Is there anybody else who wishes to comment on this agenda item? Mr. Bedford?

00:16:23:24 - 00:16:59:23

Thank you madam. Michael Bedford, joint local authorities. Obviously, the highway authorities are not statutory undertakers in a formal sense, but they do have, um, highways assets which are affected by the scheme. We are in dialogue with the applicant, and it is hoped, I think, that there will be side agreements agreed between the parties which will deal with relevant matters. But in the event that that didn't transpire, the default position that the highway authorities are likely to then adopt would be to suggest that there should be protective provisions in the in their favour.

00:17:00:11 - 00:17:12:24

That is not unprecedented in development consent orders in favour of local highway authorities. I don't develop that point now because I say there are negotiations ongoing, but I just put it on your radar that that might be something that surfaces later on.

00:17:14:08 - 00:17:19:27

Thank you. So anybody else would like to comment on this agenda item? Mr. Linus, do you have anything else?

00:17:20:27 - 00:17:25:02

Scott? Applicant. No. Other than to note, as Mr. Bedford says, negotiations are ongoing.

00:17:25:13 - 00:17:25:28

Thank you.

00:17:26:00 - 00:17:40:21

Contrary to what I said, when we, uh, reconvened, um, given that we, uh, dealt with that quicker than I had anticipated. We'll now move on to agenda item number seven, which is Crown Land. Um, I will review timings after each agenda item.

00:17:43:26 - 00:17:57:00

Turning to the applicant, please can you confirm whether all Crown Land has been identified in part four of the Book of Reference and on the Crown Land plans, given that all plots which the Crown has an interest should be identified.

00:18:01:04 - 00:18:34:08

And my friends on behalf of the applicant. Um, having conducted a LAN referencing diligent inquiry through their expert property consultant, Derek McLaren, the applicant has identified a number of Crown interests. Um, I won't list them all, but some of them are. Air. Hmm. Revenue. Customs. Uh, Office of National Statistics. Secretary of state for Levelling Up, housing and communities. Um UK Visas and Immigration examples. Uh, these are listed in part four of the Book of Reference, and their corresponding plots are shown on the Crown Land plans. The applicant is confident that they have identified all Crown land interests.

00:18:36:13 - 00:18:52:08

Thank you. I've noted your response to EXC one CA one dot 18 in respect of the progress of obtaining Crown consent. Could you briefly summarize this response and advise if there has been any further progress made, please?

00:18:54:00 - 00:19:28:15

So I won't root out the impacted Crown land organizations again. But the applicant issued section 35 consent letters in August 2023, and the applicant is in regular contact with all Crown land interests and discussions of progressing the Crown land interests and their agents have generally asked for specific details about how their clients interest will be affected, and this information is not yet available from the applicant. Therefore, the applicant is looking to enter into Memorandum of Understanding with the Crown Land Interests and this will provide comfort that the occupation requirements of the Crown interest will be mitigated.

00:19:29:02 - 00:19:39:11

Assuming the um Memorandum of Understanding meets the Crown's requirements, the applicant sees no impediment to the Crown's interests. Um, the Crown interests issuing section 35 consent.

00:19:40:25 - 00:20:01:16

Thank you. Um, I'd like to talk briefly about the home Office. Um. Particularly, is there any specific update in reaching moving to reach an agreement with the Home Office, as they have initially raised some concern that information provided didn't allow them to fully understand the possible impacts and effects on their interests.

00:20:04:23 - 00:20:19:27

So my friends, the applicant, um, the information they requested is still not available because of the lack of design in the areas where their offices are located. But we are hopeful that the memorandum of understanding will provide them the comfort that they require. Um, and that's the current update.

00:20:20:18 - 00:20:28:21

Thank you. Again, noting what you've just said, what are the implications of Crown consent is not forthcoming by the end of the examination?

00:20:58:24 - 00:21:16:03

Ask for the applicant. Come back and writing on that point, if we may. Um, I think the, um, instructed that we'd be anticipate that some form of agreement would be entered into with these parties outside. But I think we're better off explaining that in writing. So you have the full detail of an action point arising out of this, that time.

00:21:16:05 - 00:21:17:26

Will that be for the next deadline?

00:21:17:28 - 00:21:19:07

Yes, we can do that for the next deadline.

00:21:19:09 - 00:21:40:29

Thank you. Thank you. Does anybody else have anything they wish to discuss on this agenda item? No thank you. I'll move on to agenda item number eight, which is category three persons. Uh, to the applicant. Uh, please can you confirm whether all category three persons, as far as you are aware, have been identified in the book of reference?

00:21:42:13 - 00:22:12:23

As Scott Linus for the. For the applicant? Yes. Where those persons have been identified have been included in the book of reference. But we are continuing to carry out diligent inquiry, as we've explained in responses to your questions. We're going to carry out another book of reference refresh for deadline five. Has it been requested in the rule eight letter, and it will send section one to notices to any new parties identified through the through the refresh?

00:22:13:12 - 00:22:25:29

Thank you. Please can you briefly explain the process of when and how category three persons can apply for compensation, what the compensation is and whether it's considered adequate? Please.

00:22:27:27 - 00:23:07:00

Scott Linus for the applicant. Um. There are different compensations available to category three persons, and in short, we consider these to be sufficient, um, as far as compensation is concerned. Um, section 152 of the Planning Act 2008, um, sets out provisions relating to compensation which bring in section ten of the compulsory uh Purchase Act 1965 and part one of the Land Compensation Act 1973 as well.

00:23:07:09 - 00:23:38:06

Um, in short, there will be compensation available for injurious affection, um, for those affected by the execution of the works or the operation of the works, even where no land is taken from those with a qualifying with a qualifying claim. Um, under part one, those claims can only be lodge one year after the public works open to the public.

00:23:38:09 - 00:24:08:26

In short, we say the system is adequate in the sense that any claim for injurious affection relating to the depreciation of the value of land will be designed to operate under the principle of equivalence and compensation. Uh, and for those reasons, any, uh, loss of suffered will be appropriately compensated. We also add that in any event, there'll be the noise insulation scheme, which will be available to category three persons if they satisfy the relevant criteria on the laws.

00:24:08:28 - 00:24:22:21

Again, not directly relevant to compensation. Um, persons within category three uh will still be able to benefit from the spanning of the Gatwick Community Fund, but I realise that's not directly relevant to compensation.

00:24:23:19 - 00:24:36:05

Thank you. Is there anybody who wishes to comment on matters in relation to category three persons, please? Nope. I'll move on to agenda item number nine, which is funding

00:24:38:03 - 00:24:47:20

in relation to the funding statement, could the applicant briefly summarize and advise of any updates to the funding statement since the submission into the examination, please?

00:24:49:15 - 00:25:37:06

Scotland. As for the applicant, um, there aren't any updates to the to the funding statement. However, we provided further clarification in response to, uh, your the examining authority's questions at CA 119 one 2122. Uh, and we'd also refer to our response to the actions from issue one, the case for the proposed development. That's Rep 1062. Um, the key message is that the project proposed to be entirely privately funded through a blend of debt, equity and airport charges on a similar basis to the historical funding of development at the airport, which includes over £2.5 billion worth of works in the last decade.

00:25:37:24 - 00:25:43:07

Um, I can ask, uh, Mr. Norwood to explain anything further if he wishes to.

00:25:44:06 - 00:25:52:21

Sorry to interrupt, Mr. Norris. I do have some specific questions on the funding statement. So do you want me to ask those if Mr. Norwood is going to be answering.

00:25:53:15 - 00:25:56:00

For the applicant? That's probably the best approach. Ma'am. Thank you.

00:25:56:02 - 00:26:44:03

Okay, so in terms of the funding statement, the estimate, it estimates that the cost of the scheme would be circa 2.2 billion. Could you. Advise how robust this estimate is when the estimate was made. And I note that at paragraph 3.21 of the statement, the cost estimate considers expert considers expected inflation and contingencies to, you know, the included. But given our current economic challenges faced in the UK, does Gal consider this figure of 2.2 billion still to be robust? And finally, does the 2.2 billion figure cover all works within the DCO, and not just to cover the extra 13 million passengers?

00:26:54:08 - 00:27:26:26

Thank you, Tim Lord, for the applicant. Yes. So the, uh, the estimate was, uh, put together in 2023, uh, the 2.2 billion, uh, and that, uh, estimate, uh, includes the design, uh, land acquisition, uh, including any compensation payable, uh, and the, uh, compulsory acquisition of land and land interests, uh, and also includes the, um, physical construction, uh, of the project.

00:27:27:26 - 00:28:03:02



Um, you're right in saying that the cost estimate did include, uh, provision for inflation. Uh, and it does have an element of risk, uh, associated with it as well. So, uh, there was on top of the, um, level of, um, project cost, there is an inclusion for risk and inflation as well in the 2.2 billion. Um, so we believe it is a very robust figure. Uh, it would include, uh, all the works in the DCO to achieve the 13 million, uh, worth of passenger throughput.

00:28:03:15 - 00:28:37:02

Uh, and it's as Mr. Linus has said, it's not dissimilar to the types of costs that we've experienced over the last ten years, uh, where we've grown the airport by 15 billion passengers and spent approximately £2.5 billion. So we believe that the costs have been, uh, robustly put together. Uh, it's based that cost has been based on historical analysis of our spend. Uh, but we've also had contributions from various sources, including, uh, budget quotations, uh, from our supply chain.

00:28:37:26 - 00:29:01:23

Uh, also, uh, expert advice from our consultants and putting that together, our qes. Uh, and so, um, who have also got experience of working at Gatwick Airport, but also experience of working in large infrastructure projects. So we are fairly well, very confident that all of this material that has been put together fairly represents the project price.

00:29:03:15 - 00:29:12:08

Thank you. Um, can you also outline what assurance the Aeéca can have that the required funding will be secured? Secured even?

00:29:14:04 - 00:29:39:21

Thank you to note for the applicant. Yes. So, as Mr. Linus says, it's, uh, the it's all privately financed, the project, uh, and it would be funded through a blend of, um, debt, uh, equity and aeronautical charges. Um, happy to go into a little bit of detail about what each of on each one of those means, if that would be helpful. Um.

00:29:41:09 - 00:29:50:17

I think, given in the interests of time, that that would be helpful. But could I ask that you put that detail in writing in your submissions, please?

00:29:51:14 - 00:29:59:20

Scotland, if we can do that, we can. We can potentially provide that as part of the notes of this hearing, if that's the most effective way of helping you.

00:29:59:22 - 00:30:18:15

That that would be very useful. Okay, um, my final point on the funding statement. It's not unusual for, um, publicly available annual reports and accounts to be appended to funding statements. Is this something that the applicant feels is necessary that you can provide?

00:30:20:26 - 00:30:45:24

Uh, to note for the applicant. I mean, our, um, annual accounts are published, uh, publicly available every year. Um, our our reports, uh, annual report is generally published. Uh, it's a calendar year that we publish on and it, uh, the, the financial report for the previous year usually comes out in about March or April time. So we can append it. Uh, but it's very widely available. Um.

00:30:47:11 - 00:30:52:01

Thank you. If you could, uh, include that in, uh, deadline for. We'd be grateful.

00:30:53:25 - 00:31:23:26

Thank you. Those are all the questions I have on that agenda item. Does anybody have anything in relation to funding or funding statement they wish to ask? Nope. I'll move on to agenda item ten, which is action points. As usual, we will review action points and then publish them as soon as possible. If I move on to item 11, which is any other business, can I ask if there are any other matters in relation to KCA or TP?

00:31:25:25 - 00:31:26:13

Thank you.

00:31:26:18 - 00:31:32:09

If there are no other matters, I'll now pass back to Mr. Humphrey to close the compulsory acquisition hearing one.

00:31:33:12 - 00:31:34:23

Thank you, Mr. Cassini.

00:31:34:25 - 00:31:54:00

May I remind you that the timetable for this examination requires all parties to provide any post hearing submissions on or before deadline for Wednesday, the 15th of May, 2024. I also remind you that the recording of this hearing will be placed on the Inspectorate's website as soon as practicable after this meeting.

00:31:55:21 - 00:32:08:03

Thank you very much for attending today and for your participation, which we have found very helpful. The time is now 1241 and compulsory acquisition hearing is now closed.