

Hearing Transcript

Project:	Five Estuaries Offshore Wind Farm
Hearing:	Compulsory Acquisition Hearing 3 (CAH3) - Part 1
Date:	23 January 2025

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

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FULL TRANSCRIPT (with timecode)

00:00:05:29 - 00:00:34:15

Well good morning everyone. It's now 10:00. And this issue. Sorry, this compulsory acquisition hearing three is now open. Can I confirm that everybody in the room can hear me? Yeah, I'm getting some nods. Thank you. And can I also check, uh, with those, um, who are online, whether they can both hear and see us. If somebody can indicate. Please. Yes. Thank you.

00:00:38:28 - 00:00:44:18

Uh, can I check, uh, with case team, uh, Mr. Hansen, that both the live recording and the stream are on.

00:00:45:16 - 00:00:49:02

I can confirm that the live stream is up and the recording has started.

00:00:49:12 - 00:01:19:00

Thank you. I'd like to welcome everybody to this compulsory acquisition hearing. Three concerning the applicant's proposals for compulsory acquisition and temporary possession of land in respect of the application for a development consent for the proposed five estuaries offshore wind farm. My name is Graham Gould. I'm a charter town planner and I'm an inspector with the Planning Inspectorate. I've been appointed by the Secretary of State as the lead panel member comprising the examining authority.

00:01:20:19 - 00:01:23:28

I'm now going to ask my colleagues to introduce themselves. Mrs. Norman.

00:01:25:06 - 00:01:32:27

Good morning. My name is Rebecca Norman. I'm a chartered town planner and examining inspector. I've been appointed as a panel member of the examining Authority.

00:01:34:18 - 00:01:44:09

Good morning. My name is Felicity Weber. I am a chartered town planner and an examining inspector. I have been appointed as a panel member of the Examining Authority.

00:01:45:27 - 00:01:53:25

Good morning. My name is Matthew Heron. I am a chartered town planner and an examining inspector. I have also been appointed as a panel member of the Examining Authority.

00:01:56:07 - 00:02:32:15

Good morning. My name is Mark Harrison. I am also a chartered town planner and an examining inspector. I've been appointed as a panel member of the Examining Authority. So our role is to examine the application and to report to the Secretary of State for Energy Security and net zero, with a recommendation as to whether or not the development consent order should be made at this point. I'd also like to introduce a member of the planning Inspectorate's case team who is supporting us today.

00:02:33:06 - 00:03:03:26

You may already have spoken with Mr. K.J. Johansson, who is the case manager for this project. And also present at this hearing is another colleague from the Planning Inspectorate, Mr. Gareth Jones. Um, Mr. Jones, who's sitting at the back of the room, is here in the capacity purely as an observer, as part of the planning Inspectorate's commitment to continuing professional development.

00:03:04:24 - 00:03:40:25

Mr. Jones is an inspector who undertakes casework other than the examination of nationally significant infrastructure projects, and he will play no part in the examining authority's making of a recommendation to the Secretary of State. In addition, technicians from the audiovisual company CVS international contracted by the applicant are in attendance solely for the purpose of managing the recording and live streaming for this hearing.

00:03:42:08 - 00:03:50:18

I'll now briefly cover housekeeping matters. Um. Could everyone in the room please set all devices and phones to silent?

00:03:52:06 - 00:04:03:12

Uh, you've probably seen Scene. Toilets are located out in the corridor from the back of the room. Where you entered this room?

00:04:05:06 - 00:04:37:22

Um, in terms of, uh, fire alarms or tests, uh, in the event of a fire alarm, please leave the room and use the marked fire exits at either end of the building or the building's central staircase. Uh, then please make your way to Assembly Point A in the main car park, which is on the left hand side of the parking area. You should then wait at the assembly point until stadium staff advised that it is safe to re-enter the hearing room.

00:04:40:22 - 00:05:29:24

Format of today's hearing. It is being undertaken both in person and with some online participation via Microsoft teams. We will make sure that if you are attending online today, you will be given a fair opportunity to participate. The hearing is being both live streamed and recorded. For those people participating or observing via Microsoft teams in order to minimize background noise and disturbance, could you please ensure that you stay on mute unless you are speaking? If you are participating online and you wish to speak at the relevant points in the proceedings, please use the raise Hand function.

00:05:30:13 - 00:05:47:19

Please also be patient as we may not get to you immediately, but we will invite you to speak at the appropriate time. I would also remind everyone that the chat function on Microsoft Teams has been switched off for this event.

00:05:49:18 - 00:06:19:20

A recording of today's hearing will be available on the five Estuaries Offshore Wind Farm project page of the Planning Inspectorate National Infrastructure website, as soon as practicable after the hearings. Conclusion. With this in mind, please ensure that you speak clearly into a microphone stating your name and who you are representing each time. Before beginning speaking.

00:06:20:20 - 00:06:50:24

If you are not at a table with a microphone, there is a roving microphone. So please wait for one of these to be brought to you before you speak. If anyone wishes to use social media, report, film or record during today's hearing or any subsequent hearing, then you are free to do so. But please do so responsibly and with proper consideration for all parties present.

00:06:51:11 - 00:06:56:22

This must not be disruptive and the material must not be misused.

00:06:58:20 - 00:07:32:03

We aim to keep the hearing focused so that it can be conducted efficiently. You will find information about this application on the planning Inspectorate's National Infrastructure Planning Project page, and we would strongly encourage you to continue to familiarize yourself with our websites, because the examining authority is using it to communicate with all parties and to provide access to documents throughout the examination.

00:07:33:23 - 00:08:14:21

It is necessary for me to say a few brief words on the General Data Protection Regulation, known as GDPR. This hearing is being recorded as well as live streamed. The digital recordings are retained and published. They form a public record that can contain your personal information and to which the GDPR applies. The planning Inspectorate's practice is to retain and publish recordings for a period of five years from the Secretary of State's decision on the application.

00:08:15:12 - 00:08:29:05

Consequently, if you participate in today's hearing, it is important that you understand that you will be recorded and that you therefore consent to the retention and publication of the digital recording.

00:08:30:22 - 00:09:10:19

The examining authority will only ever ask for information to be placed on the public record. That is important and relevant to the determination of the application. It will only be in the rarest of circumstances that we might ask you to provide personal information. Of the type that most of us would prefer to keep private or confidential. Therefore, to avoid the need to edit the digital recordings, I would ask that you try your best not to add information into the public record that you would wish to be kept private, or that is confidential.

00:09:12:06 - 00:09:33:03

Please bear in mind that the only official record of the proceedings is this recording, and that is placed on the Inspectorate's website. Tweets, blogs, and similar communications arising out of this hearing will not be accepted as evidence in the examination of this application.

00:09:34:19 - 00:10:11:25

So moving on to introductions. Um, I'm now going to ask those of you who are planning to speak at today's hearing to introduce yourselves. Could you please introduce yourself, stating your name and who you represent along with the agenda item or items you wish to speak on? If you are not representing an organization, please confirm your name. Summarize your interest in the application and again confirm the agenda items that you wish to speak on. And please, could everybody just let the examining authority know how you wish to be addressed i.e.

00:10:11:27 - 00:10:14:16

Mrs., Mr., miss, etc..

00:10:16:08 - 00:10:31:07

Um, so could we start with the applicant and its advisors, please? Um, if we could hear first from whoever is going to lead the submission today and then from others who may make regular contributions.

00:10:33:18 - 00:10:40:25

Good morning sir. Miss Paula McKinney. For the applicant, I'm a solicitor with Burgess Salmon, and I will ask the rest of our team to introduce themselves.

00:10:44:15 - 00:10:46:24

As Maynard, engineering manager for the applicant.

00:10:47:18 - 00:10:51:18

Julian Boswell, solicitor and partner with Burgess Salmon for the applicant.

00:10:53:04 - 00:10:57:00

Good morning. Adam Kendall, land transaction manager for the applicant.

00:10:59:04 - 00:11:02:22

Good morning. Adam Canning. I'm the land agent on behalf of the applicant.

00:11:05:21 - 00:11:23:15

Thank you. And as with previous hearings, is there someone amongst the applicants team who will be able to keep track of action points as they arise during the course of the hearing? And thank you, miss McGeady. I think I saw a nod of the head there.

00:11:26:08 - 00:11:55:16

Now moving on to the other interested parties who intend to speak. Again, please introduce yourself and tell us which agenda item you wish to speak on. Um, I'll be covering in these introductions, those who are both present in the room today and online via teams. Um, so do we have, uh, Mr. Foster, agent for H. Fairley and Son limited.

00:12:16:15 - 00:12:17:07

Oh, sorry.

00:12:18:18 - 00:12:19:04

Sorry.

00:12:20:15 - 00:12:54:05

Sorry. So sorry. Would you mind repeating that first visit? Um, Hayden Foster from Clark and Simpson in Framlingham, representing, uh, Henry Fairley and Son Limited. You're correct. Uh, some 30 years experience acted on other wind farms and infrastructure projects. Uh, I had to choose a day to come because my client has to pick up the tab for me being here, being truthful with you. So the most appropriate probably on today's agenda was land plans. But I have got some representations that will overlap with farming and soil matters.

00:12:54:07 - 00:13:00:20

But it wasn't possible to be here every day, so I'm hoping you'll let me at least say those things today.

00:13:03:02 - 00:13:43:26

Uh, Mr. Foster, this hearing is exclusively to do with compulsory acquisition type matters. It may be that some of what you have to say will, um, cross over, uh, into compulsory acquisition type matters. We'll have to see how we go with that, potentially. Um, what we may have to say to you is we won't hear that evidence, but can you submit it in writing? And that can then effect form part of what we might otherwise have heard in the specific hearing that we heard held earlier this week, which did deal with farming type matters and implications for farming operations.

00:13:44:06 - 00:14:05:06

You understand that, and you will appreciate my difficulty in saying to the client that you need to pay me to be here for three days, when that's a cost that a farming individual, at a time of suppressed incomes in farming has to pick up individually. So we had to pick a we had to pick a day. I, of course, can submit it in writing, but if there were the opportunity, I'd appreciate the chance to do that.

00:14:06:09 - 00:14:32:10

As I say, we'll we'll just have to see how that goes, because this is a very specific form of hearing. Um, but um, as I say, we'll cross any bridges that we might have to, in effect, rain you back. Okay. But if we do rain you back, you do we you will have the opportunity to make the written submission. Um, so it won't be that we won't receive the evidence. It'll just have to be in a written form.

00:14:32:12 - 00:14:33:05

Thank you very much.

00:14:36:25 - 00:14:46:29

Thank you. Um, and representing uh t and r fairly farming partnership and t family and sons limited.

00:14:48:00 - 00:15:01:06

Tams in fairly on behalf of t fairly and sons Robert fairly limited to you know fairly farming partnership. Uh the action the agenda item will want to speak on is 3.2. Thank you.

00:15:05:22 - 00:15:06:11

Thank you.

00:15:08:27 - 00:15:11:24

Um, Mr. John Fairlie.

00:15:19:25 - 00:15:20:11

Thank you.

00:15:25:10 - 00:15:33:17

And then, um, turning, uh, online, I believe we have Mister Gold for Cobra. Missed. Limited.

00:15:37:19 - 00:15:50:02

Good morning. Um, I'm representing Cobra miss limited. Um, forgive my garb. I've just had it come out of hospital, and, um, I will be discussing matters as and when they arise.

00:15:52:03 - 00:15:54:12

Right. Thank you. Thank you, Mr. Gold.

00:15:57:26 - 00:16:07:11

Uh, is is there anyone else, either in the room or online that, uh, I haven't or haven't invited to introduce yet?

00:16:12:06 - 00:16:12:23

Oh, yeah.

00:16:14:12 - 00:16:16:02

Uh, Tendring District Council?

00:16:17:06 - 00:16:19:08

Uh, yes. Uh, my name is Jacob Yama.

00:16:19:10 - 00:16:47:27

For Tendring District Council. Um, happy to be called Jacob. I, I'm not quite sure which which item I may speak on, but it's probably likely to be item 3.2, and it depends on how the discussion, uh, you know, feeds us out and how the, you know, how the discussion land. But in particular, if the Holland Haven Country park, uh, compulsory purchase matter comes up, then I would probably speak on that. Thank you.

00:16:51:02 - 00:16:56:25

Great. Thank you. And I think that was the only hand up that I saw online.

00:16:58:26 - 00:17:01:13

I'm not seeing any other hands up in the room, so.

00:17:04:20 - 00:17:25:26

Um, I would say, though, that if anybody else, uh, decides that they wish to speak during the course of the hearing, for example, to make comments in response to representations made by other parties, you may do so. Please raise your hand either physically or using the function within Microsoft Teams.

Um, if you wish to speak.

00:17:28:09 - 00:18:01:11

I think that concludes agenda item one. Moving on to agenda item two. The purpose of the hearing. A few, few brief words. Um. This hearing will generally follow the agenda as issued on the project page. Um, on the 15th of January. Um, it would obviously be helpful to have a copy of this in front of you. Um, and could I perhaps also ask the applicant team to arrange just for the agenda to be displayed on, on screens? Thank you.

00:18:03:10 - 00:18:51:03

Um, you will have seen the hearing guidance noted within that agenda document for expediency. I'm assuming that everyone has read this, and therefore I don't propose to spend time reading it out now. Uh, but we'll make a couple of, uh, short elaborating remarks. Um, the examination of this CIP application will primarily be to be conducted in written form. Um, the purpose of today's hearing is for the examining authority to hear evidence concerning the compulsory acquisition and temporary possession powers sought by the applicant in connection with the proposed development.

00:18:52:11 - 00:19:19:24

The matters for discussion during the course of CRH three, as we may refer to it for expediency, have been identified by the examining authority based on its consideration of the application documentation. The relevant representations made by affected persons, and other submissions made during the course of the examination.

00:19:21:17 - 00:19:43:17

When you are answering the examining authority's questions, could you please ensure that you provide succinct answers where a question is simply deserving of a yes or no type answer. Um, then please respond accordingly. Um, followed by any amplification as necessary.

00:19:45:19 - 00:19:51:00

Um, does anybody have any comments or questions it wishes to make under agenda item two?

00:19:53:23 - 00:20:15:05

And not seeing any hands up in person or virtually. Um, so thank you. Um, that concludes this item of the agenda. And we can move now on to item three of the agenda. Uh, and I will hand over to my colleague, Mr. Gould.

00:20:19:01 - 00:20:37:00

Thank you. So, turning, uh, to agenda item three one. Um, can I ask the applicant to give a brief explanation of the various changes that have been made to the book of reference at deadline five. The book of reference being 5009.

00:20:40:07 - 00:21:13:00

Adam Canning for the applicant. The applicant submitted an updated book of reference 5009 for deadline five. Due to changes in land ownership for plot 1517, the applicant was previously made aware of this change in ownership through engagement with the landowners, but the Land Registry title has only recently been updated. The applicant identified that an existing category two interest should have also been listed against plots 727374757678797 ten.

00:21:13:20 - 00:21:18:04

The category two interest was an existing interest and have been consulted with.

00:21:19:22 - 00:21:41:08

There were also a number of category three interests which were incorrectly added to revision of the Book of reference, which is Ace 063. This is just due to a database error which has been addressed. Um, and these additional category three interests have been removed from revision. E thank you.

00:21:43:26 - 00:21:53:05

Thank you, Mr. Kenny. I just had one question. It did revolve around the errors. What actually happened? Because there were rather a lot of them 70 plus.

00:21:55:04 - 00:22:06:22

Uh, effectively we had archived in our database a load of category three interests when we ran a script to pull all the data through into our new book of reference. Uh, it pulled through archived interests.

00:22:26:27 - 00:22:57:16

Is is the applicant content that the book is now, um, accurate, um, or at least accurate at this point because of course there may be some change of ownership literally going on as, as we sit here today, which could affect things, uh, by the time we get to the close of the examination. But are you generally content that the book is accurate up to this point, as far as you can reasonably know at this stage? Because appreciate the registration of changes. The registry can take some time.

00:22:59:07 - 00:23:16:16

Yes. Adam Canning, the applicant, um, we we put in this updated book of reference, even though it wasn't one of the requested documents to try and capture some of the minor changes, unfortunately. And, uh, we did pick up on this error, which has been addressed. Um, yeah. We're very confident with the book of reference.

00:23:23:28 - 00:23:25:25

Presumably you are regularly

00:23:27:10 - 00:23:37:00

reviewing what is going on in terms of and if there were to be a need for any further update, we would get the update before the examination closes.

00:23:45:26 - 00:23:57:06

Yes, we will. Uh, we are continuously, uh, reviewing any sort of updated Land Registry titles. Uh, and we will, uh, provide an update towards the end of examination if there's any further changes.

00:24:06:14 - 00:24:41:17

Part of my interest in that connection is I still haven't yet decided whether I'm going to ask for a hard copy, um, when I actually come to, uh, report on this matter, because sometimes it's easier to have a hard copy than try and rely on 800 whatever pages on the screen. Um, so it may be that you will receive a request not too far from the close of the examination to to receive a hard copy. Um, so it would be useful to know if there are to be any update when they might need to be made before I potentially make that request.

00:24:49:04 - 00:24:56:22

I'll make you do that. Again, sorry, but we're intending to do the sort of final refresh and check for D7, which would mean we could give you hard copies either at D7 or D8.

00:24:58:05 - 00:24:59:03

Thank you, Miss Piggy.

00:25:05:27 - 00:25:13:10

Yeah, that thing concludes agenda item three one. So I'd like to now move on to three two. Excuse me.

00:25:16:24 - 00:25:23:06

And this is in effect a summary of cases from affected persons who are attending this hearing

00:25:25:05 - 00:25:56:01

and would particularly like to hear your views. Um, in respect to the powers that are being sought by the applicant, how you consider they do or do not comply with section one, one, two, two of the act, which is the purposes for compulsory acquisition. Um, and also your views on how the proposals that the applicant has for acquisition of land may or may not comply with the guidance of 2008.

00:25:57:11 - 00:26:20:29

Um, what I would ask is that those parties who have already, um, given evidence at the various compulsory acquisition hearing that we've already had, you don't repeat what we've already heard, but really, um, indicate perhaps where negotiations have or have not been going. From your perspective in the intervening period?

00:26:26:13 - 00:26:44:15

Um, but for this session, I presume, uh, Mrs. Fairley, you'd like to say something on behalf of your client, Mr. Foster. You'd like to say something definitely on your part for your client. And I'm presuming, Mr. Gold, you'd like to say something on Cobra behalf.

00:26:52:02 - 00:26:58:09

Not hearing. I'm. I think we'll work on the basis that Mr. Gold will wish to say something, but I think we'll start with.

00:26:58:11 - 00:26:58:26

Yes.

00:26:59:11 - 00:27:11:02

Yes. Thank you. I think we'll start with Mr. Foster, as he's, uh, not had an opportunity to say anything on his client's behalf. Um, because he's not been present previously. There's no second.

00:27:11:04 - 00:27:31:03

So, uh, Hayden Foster, uh, as I said previously, Representing Henry uh, Fairlane Sun Limited. Um, what I'll endeavor to do. I've made some notes, but what I will endeavor to do is to jump about a bit within those. So to try and not cross the boundaries too much as you've asked me to. So, uh, apology if I do jump about a little bit.

00:27:31:22 - 00:28:07:06

Um, before you start, Mr. Fossil, what I might suggest is, um. Because what we normally do is we ask parties who are likely to be speaking from notes to submit their notes, post hearing. Um, what perhaps you could do is perhaps divide your note up into what specifically compulsory acquisition type matters and then other matters, and then it will be clearer, um, post hearing to everybody looking at the notes, those that you consider are, if you like, exclusively compulsory acquisition based versus other matters.

00:28:07:08 - 00:28:44:14

I'd be pleased to do that. Thank you for the clarity. So, uh, talking mostly about compulsory acquisition type matters. I want to start by saying that my client is not anti scheme. Um, I've been asked to say that for the for the record, it is the um the terms that have been offered are the reason that at the moment we are here representing in a more negative way and not in a position to move move things forward at a personal level. I've got experience on a lot of infrastructure schemes to include wind farms, um, roads, sizeable power station, etc.

00:28:44:22 - 00:29:17:18

and in nearly all those cases, um, three, at least we've had 100% sign up from clients to heads of terms prior to compulsion. So my preference and my client's preference is to reach an agreement with the scheme. Um, the biggest fundamental relating to land plans that we have, that is all the discussions so far, um, we have recently talked about separating, but so far it's been a tripartite agreement with tripartite heads of terms, which involves North Falls as well.

00:29:17:20 - 00:29:51:10

So we haven't been talking about this scheme in isolation because that opportunity hasn't been facilitated. Um, the there is a duty to try and agree heads of terms with landowners without outside of compulsion. And to date, we don't feel that's been fulfilled. Ah, we started negotiating heads of terms with a view that the very wide corridor that was asked for to put two relatively small easements in, um, would be reduced.

00:29:51:12 - 00:30:22:19

It was reduced, but we still sit at 90m for two much smaller easements. Um, and we sit with a situation where there is, uh, no firm commitment to narrow that 90m. There is a loose undertaking that the project will be prepared to do what they can to get them close together. There's no commitment as to whether there'll be 1 or 2 hall roads. Um, there's no commitment as to construction.

00:30:23:06 - 00:30:55:25

We talked about, uh, installing ducts simultaneously. Um, we were told that wasn't possible because of the. They'd need to be the contract for difference, and the timings were different. Um, in reality, there is industry wide, um, demonstration where that has occurred. Um, e three ducts were laid by A1. I know they'll shoot back at me straight away that they're both Scottish Power and Iberdrola.

00:30:56:02 - 00:31:07:24

That point is accepted. But RWA who are involved here laid ducts for Boreas, Vanguard entirely at risk. So there is evidence of that occurring.

00:31:09:09 - 00:31:41:08

The problem with the 90 meter width is that. Effectively, for the temporary period of the option, you have a restriction over title over a very big area and and for the period of the extension beyond that. And similarly in conjunction with that, if ultimately and it is we do find more and more, we have a David and Goliath situation where, um, landowners find it difficult to challenge.

00:31:41:13 - 00:32:16:03

I'm working on another project where we've basically been told during construction, well, if you don't like what you're doing, you'll have to get an injunction. Well, that's unrealistic for a landowner working at a local level to take on the might of a big multinational company. Um, we will ultimately have no influence over whether that 90m is 90m or it's 40m or it's 45m. And in reality, the area in between those two tables is sterilised forever.

00:32:16:29 - 00:33:01:23

And that is a challenge. Um, there is limits on depths of working. There is. You'll find that if you want to install a new drain in due course, you'll need consent from both projects. The whole of that, that field. That area is then affected by such actions. I, I genuinely don't understand why it cannot be narrowed. If I'm truthful, we went on with the negotiation process. We thought we would make progress because it seemed logical that as the development of the scheme went on, as progress was made with the technical information, it would be possible to gradually say, actually, 90 is 90 is 80, 90, 70, 90 is 60.

00:33:01:25 - 00:33:36:08

There's examples of that on other schemes. And that is what has happened with the fluctuation of time. We've reached a point where we've been told that the plan that is offered to us, and the heads of terms that are offered to us, are the final version that's going to be offered. And as I sit here today, my clients feel that signing a restriction over 90m is impossible for them, and I find it's impossible for me to say that they should sign a document that effectively puts a restriction over such a wide area.

00:33:36:12 - 00:33:57:03

So our objection is not to the scheme, it is to the area that is affected at the moment. And as the heads of terms stand at the moment, there'll be no final decision en route until entry is taken, which is a which is a very long way away. So I guess on that particular subject, um, at this stage, that's what I wanted to say.

00:34:04:10 - 00:34:18:20

Thank you, Mr. Foster. What am I intending to do with this session is we'll hear from all the affected persons, and then we'll ask the applicant if they have any response before I then potentially raise some questions. Um, so

00:34:20:07 - 00:34:25:16

turning to the other fairly farming group, uh, Mrs. Fairlie.

00:34:26:09 - 00:35:01:13

Tamsin Fairlie for t Fairlie and Sons. Um, I'm proposing to keep my summary quite short for this point, but hopefully we'll have the opportunity once we hear what questions you've asked and see to come back with more detail if it's needed. But I think we've will be somewhat saying what we've said before, so I'll keep it short. That's fine. Um, our main issue is with the extent of the freehold acquisition in plot 1702 four. It's the field perimeter which, um, abuts the rear of the yard at Norman's farm, um, and leaves an area in the centre of that field.

00:35:01:25 - 00:35:33:14

landlocked per se. Um, we don't think that that's, um, acceptable, especially as most of that screening relates primarily to the North Pole substation. Um, which obviously isn't part of this. We have been shown a plan by North Falls, which we submitted at deadline to, which also doesn't require this screening. So we don't understand why if North Falls think they can change their landscaping plan to not need this section. We five estuaries think they do.

00:36:32:18 - 00:36:36:01

She said it. Was that all you wish to say at this juncture?

00:36:36:13 - 00:36:41:21

I think at this point that probably encompasses what we need to say. But if we have opportunity to come back later, that would be.

00:36:46:23 - 00:36:50:06

Then turning to Cobra. Mr.. Mr.. Gold.

00:36:54:16 - 00:37:52:20

Thank you sir. Um, first of all, I want to make clear that, I don't wish to repeat anything than the points I made in which. In your catalogue of documents. Rep 5103 and 104. And I also want to make it clear that I'm not anti scheme and wish, if at all possible, to enter into a voluntary agreement. And my concern is that I made a number of points in one A3 and one A4, upon which there's been no feedback or discussion on those and, and on their face they look the the rights that are claimed on the CPA process seem to be wholly disproportionate and far too wide and effectively, from my point of

view, the amount to almost an abusive, abusive process and bullying me in into agreeing with something that I we've had no opportunity to discuss yet.

00:37:53:08 - 00:38:35:06

Um, my detailed questions are how long do the CPA rights, if they are granted, exist? If there is a voluntary agreement? If I enter into a voluntary agreement, are the CPA rights still there so they can turn around? If there's some state after the voluntary agreement has been entered into? And tell me, well, irrespective of the voluntary agreement, we're going to do X, Y or Z. Um, that's one of my major concerns. But the other thing principally is that the CPA writes short go far, far too wide and effectively impact the whole business which upon which, um, it would have a dramatic effect.

00:38:35:08 - 00:38:58:04

This isn't just what we're talking about in relation to Cobra. Mist is a complex, um, telecoms and other business which has got a large built infrastructure. Um, and if the CPO process upsets all of that, then we're talking about a massively different discussion. We talk about a voluntary agreement And the amounts we are talking about would fundamentally change.

00:39:07:04 - 00:39:22:18

Thank you, Mr. Gold. Is that all you intend to say at this stage? I've certainly got some questions, which I suspect will involve a bit of a dialogue between myself, applicant and yourself over some of the issues that you've raised in your deadline. Five submissions.

00:39:23:26 - 00:39:38:22

That's that's all I intend to say at the moment. As I say, I'm not a professional in this area, and I don't have all my notes with me at the moment because I'm afraid I had to come to London rather rapidly or something, and I haven't got anything with me but do far away as and when.

00:39:39:04 - 00:39:39:20

Thank you.

00:39:45:06 - 00:40:09:16

But then, turning to the applicant, in terms of what you've heard from Mr. Foster on behalf of Henry Fairlie. And then if we can look at what's been said for the rest of the failures by Mrs. Fairlie and then pick up the missed points if there's anything you wish to say in response.

00:40:11:16 - 00:40:44:21

Uh, Paul McKinney for the applicant. Um, sir, I suspect we've probably covered most of these points in one form or the other already, so I will be brief. Um, you will be aware that we are seeking to have the ability to put in ducks or North Poles, where that that is possible within the timeframes. And the, um, both projects are receiving consent and CFD. So we are trying to do that collaboration that was being mentioned. The 90 metre corridor will not be narrowed down at this stage because it requires detailed design to do it, which will include, for example, the various constraints that we have been discussing in these hearings.

00:40:44:23 - 00:40:57:24

Ecology surveys, archaeology surveys and root protection zones and so on. So that that is a detailed design matter, and that is normal in these cases that there is a wider corridor which is narrowed down at detailed design.

00:41:17:27 - 00:41:24:25

Yeah. Um, I think all the other other points that were brought up have already been covered in the hearing, so I wouldn't intend to spend time on them unless you wish me to. Sir.

00:41:38:22 - 00:42:09:20

Um, are you happy for me to move on to Mrs. Fairley? Yep. Um. I think we have spent some considerable time talking about landscaping around Norman's farm. Five estuaries does not accept, and it is not our position that that screening is for the North Pole substation. That screening is for the development for which we are seeking consent. We know that North Poles are taking a different approach to landscaping on the basis of their advisers. We do not agree with them, and we have explained our position on landscaping and it being closer to receptors on the perimeter.

00:42:10:03 - 00:42:15:14

Um, I don't think there is anything we can usefully add to those previous submissions on that point at this juncture.

00:42:38:10 - 00:43:13:12

Uh, moving on to Cobra Mist. Um, we are preparing a response to Mr. Cobra. Miss deadline five submissions. We ignore. we we we think we understand where one of Mr. Gold's concerns is coming from and that the way that the plot has been drawn up, the works plans show where the fencing and so on would go. But the land plot includes a stretch of the access road because that made sense in title terms. I believe it has been communicated to Mr. Gould that we would intend to split that plot so that it was clearer, which was the the LBP compensation site and which was only access rights.

00:43:13:17 - 00:43:45:09

I understand he's waiting to see the documents for that. We have not had time since deadline five to make those sort of changes as yet, but we are working on it. We do not accept and we are, as I said, preparing a written response, that the rights that we are seeking would in any way impinge on the telecom's business use. Um, that does require a bit of detail to come back to source. So we are have been working point by point through Mr. Gould submission. And if you have questions on that, we will try and answer them. But there were a number of points in there for us to try and respond to.

00:43:56:19 - 00:44:42:03

Thank you, Mr. Spaghetti. I do have some questions, but, um, which I'll come to in a bit, but there is one, um, matter which Mr. Gold raised, uh, in his brief oral submission a few minutes ago. Um, could you provide some clarity for both examining authority and therefore Mr. Gold as well? Um, the point that he raised with respect to if if Cobham enters into a voluntary agreement, how does that relate to the full suite of compulsory acquisition powers that the applicant is seeking? In effect, would the voluntary agreement spell out, um, the arrangement and therefore, in effect, negate the full range of powers that have been sought?

00:44:44:14 - 00:44:57:20

For the applicant. In common with other DCO scale projects, the powers will still be sought for other interests as a fallback in case they are required where there is a voluntary agreement. No CCA would be sought against Mr. Gold or Cobra or Cobra.

00:45:08:28 - 00:45:15:21

Yeah. Where there is a voluntary agreement in place, they say powers would not be used because that would not be reasonable.

00:45:46:14 - 00:45:54:22

Sorry, Mr. Gold. I was just waiting. There's a discussion between Mr. Boswell and Miss McGee. I don't know whether they wanted to add anything. Before I ask. Mr..

00:45:55:06 - 00:46:24:02

There is a new answer. NCA powers where there is an agreement, but the agreement is breached. NCAA powers are sometimes used in that circumstance. We didn't really want to get into that, because we don't want to raise any implication that we think Mr. Gold would breach his agreement. But some projects do keep key players with that fallback option as well. We're just having a discussion about we think we it might be helpful to do this in writing because that point is quite nuanced and we really do not wish to cast. We don't want an implication that we think anyone would reach their agreement.

00:46:24:24 - 00:47:01:07

And it sounded like to give an oral response could take quite a lot of time for an eventuality that might not come to pass. Mr. gold, does that explain the situation that on the point that you raised, that if a voluntary agreement is entered into by your company and the applicant, then that agreement. In most circumstances, unless the agreement was breached, um would in effect usurp the CA powers that would otherwise, um, be relied upon by the applicant.

00:47:02:27 - 00:47:21:25

The answer is, I don't know is if the there is a voluntary agreement and they then revert to using CPO powers to override theirs. Is that as a matter of law that they can't do so? Is it a matter of being trying to be gentlemen? Well.

00:47:23:05 - 00:48:09:07

I'll summarize what I thought. Miss McGeady has just said after her discussion with Mr. Boswell. If I'm incorrect, then no doubt I will be advised otherwise. But the if the bottom line in this Situation is if an agreement is agreed as signed between the two parties. That will take precedent. Unless for whatever reason, there was a breach of the agreement um, by Copa, which, um, would enable the applicant to revert to the broader CCA powers that would be contained within any made order as currently sought by the applicant, Mr.

00:48:09:09 - 00:48:16:09

McGeady or Mr. Boswell. Is that a fair summary of what you said a little while ago?

00:48:24:14 - 00:48:27:19

Sorry, sir. You say if there's a breach, but.

00:48:28:01 - 00:48:34:15

Just before you carry that, there's. I think there's still a little bit of discussion between, uh, Mr. McGeady, Mr. Boswell.

00:49:58:16 - 00:50:00:04

Julian Boswell for the applicant.

00:50:03:25 - 00:50:22:00

If the if if if if a binding, uh, legal agreement is signed with the landowner. But it's silent on the use of compulsory acquisition powers which exist in, uh, a DCO or or any kind of CPO, then.

00:50:25:25 - 00:50:47:27

The expectation is that the, um, the developer will operate through the voluntary agreement, but the developer is not legally prevented from using the CCA powers. So if you want to put that situation beyond doubt, you have to address it expressly within the voluntary agreement.

00:51:10:12 - 00:51:50:04

So, sir, in practice, the the the two main scenarios that that a developer cares about are where the landowner is in breach and that then have having, you know, seeking to to resolve that breach could could take a significant amount of time. And they, they need to get on to the land. And the other scenario, the other classic scenario. I'm not saying it's the only one, but the other main one that gets talked about is a situation where there is some kind of legal incapacity, typically through probate, where suddenly you, you, you can't deal with the relevant landowner or land interests.

00:51:50:06 - 00:52:06:18

The other scenario would be some kind of insolvency scenario. And so the developers, where you've gone to the trouble of seeking compulsory powers, normally want to preserve that as an ultimate fallback, even where voluntary agreements have been entered into.

00:52:17:00 - 00:52:17:24

Can I speak?

00:52:19:26 - 00:52:20:19

Yes. Mr. Golden.

00:52:23:06 - 00:52:36:27

Sorry, there's been a bit of late, but I think it was important that Mr. Boswell obtained the clarification from various other representatives for the applicant so that. hopefully that's a little bit clearer. But yes, if you'd like to respond to what you've just heard.

00:52:37:14 - 00:52:50:11

Just very quickly, he's responded in relation to the applicant being happy. If if effectively we breach our our voluntary side of the voluntary agreement, what happens if the applicant breaches.

00:53:13:16 - 00:53:19:09

Julian Boswell for the applicant. That would just be a normal dispute scenario.

00:53:21:20 - 00:53:43:25

In other words, I mean, we could speculate about the the nature of the breach. But if anybody if any party breaches a legal agreement. Then there are different remedies available ultimately through through the courts. Um, so I guess that's that's all I can say. Really, sir.

00:53:44:17 - 00:53:58:09

So we're left with a provision whereby might is right and we have to go to the courts. And so effectively you can decide whether I'm up for a fight to the court or not. And you can carry on as before just using the compulsory purchase powers.

00:53:59:28 - 00:54:16:21

It doesn't sound very satisfactory from my point of view. I want to reach an agreement which is voluntary and stands the test of time so we can do everything simply and straightforwardly without going to the hassle of saying, we've got to go through the court to effectively do it.

00:54:21:12 - 00:54:54:27

Well, do you want to? I mean, my understanding if there was a breach of the voluntary agreement, Um. That presumably would be quite readily detectable. Um, and therefore the parties suffering um, the breach, i.e. the landowner could potentially, um, perhaps, um, indicate that it was minded to commence legal proceedings to resolve the matter, which might alert the undertaker that there was a concern.

00:54:55:12 - 00:55:29:10

And presumably the Undertaker would wish to try and over legal proceedings and correct the matter. Or potentially it might have to go to arbitration before it got to formal legal proceedings, depending what the sort of matter was. Um, and as we sit here now, can you envisage a situation where, um, the undertaker might breach a voluntary agreement? I mean, it presumably would have to be quite wilful for a breach to arise.

00:55:43:04 - 00:56:17:09

Is it helpful if I respond? Sorry. Is it helpful if I respond? Yeah. So Julian Boswell for the applicant. The voluntary agreement will have a dispute resolution provision in it. So the first thing that you would do is to go through the dispute resolution provision within it. Um, or ordinarily but but the backdrop here, sir, is that, that the whole reason that a developer or a promoter seeks compulsory powers in the first place is to ensure that they have got the ultimate ability to, to, to, to deliver the project.

00:56:18:09 - 00:56:20:08

And so the.

00:56:22:24 - 00:56:54:17

If you've got compulsory powers Hours. Then you know exactly the basis on which you can exercise them. And of course, you will be paying compensation in accordance with the compensation code if you exercise them. And you know that by using a either the general vesting declaration process or the notice to treat notice to entry process, you know exactly what timing you're working with. So in the

case of a in the case of a voluntary agreement, in the vast majority of situations, you would expect everything to go straightforwardly.

00:56:55:00 - 00:57:26:25

And the main in terms of us being in breach, that that is the main thing that we're doing pursuant to that agreement is serving the relevant notice to exercise the option that then takes us onto the land. That's what we really care about is, is getting onto the land to be able to do the work. So if there is something unexpected that happens where a landowner is in breach and is trying to deny entry, for example, to the land, even though the agreement allows that to happen.

00:57:27:13 - 00:58:13:01

Um, that you can cut through that by using compulsory powers. Or as I say, if there is a step that's required under the agreement and the, um, the signatory to the agreement has a legal, legal incapacity. Um, that means that at that time, they that they, they can't perform, then the, the normal approach is that a developer. I'm not saying that there can be exceptions to this, but the vast majority of instances the developer still wants the ultimate comfort of, um, using being able to use the compulsory powers pursuant to the DCO or a CPO.

00:58:19:03 - 00:58:30:21

So in simple terms, it's heads I win, tails you lose. If you want to carry on, we can do nothing about it. Because the voluntary agreement is subservient to your CPO powers, which continue to remain.

00:58:31:22 - 00:59:11:18

No, because as I've just said a moment ago. Sorry if it's okay if I respond. Um, Julian Boswell for the applicant, the where I think this conversation is heading is that we will, uh, we will put forward, um, a clause for the, um, uh, ultimately for the option agreement that, uh, that, that, um, that, that governs the situation that we're talking about. And I don't suggest, sir, that we get into, um, tape, you know, talking about the detail of that, but this type of clause, um, gets used from time to time.

00:59:11:21 - 00:59:26:08

And, um, that the reason that I spoke to, uh, to I just obtained instructions to make sure that, um, that we were content to put forward that that clause in this case. And we are.

00:59:31:04 - 00:59:31:23

So thankful

00:59:33:15 - 00:59:39:20

for the land again. So that was an option agreement, but not necessarily in the voluntary agreement.

00:59:41:09 - 00:59:42:05

Well, I think.

00:59:43:11 - 00:59:44:08

That's the same thing.

00:59:44:10 - 01:00:19:15

Yeah, that it sounds like this is a matter that needs to be discussed between the parties. The hearing is not the place to do it, not least because it I agree as, as miss McGeady said the there sounds like there's going to be quite nuanced wording that might be required. Um, but I think from what the examining authority is hearing this morning is the applicant is willing to discuss matters that might be of quite detailed with, uh, Cobra missed and that potentially, Some of Mr.

01:00:19:17 - 01:00:27:10

Gold's concerns can be addressed. Um, Mr. Boswell, Julian.

01:00:27:12 - 01:00:59:18

Boswell for the applicant, just to say that there is an important point, which is for this, this, this, um, this hearing and for your decision, namely, um, as I hopefully you've gathered. But I do want to just sort of repeat it, that we are seeking compulsory powers to underpin, um, to underpin this situation, um, not only in relation to Mr. Gold, but in relation in relation to, to the project. And there are multiple, many, many countless examples of, sorry, countless.

01:00:59:25 - 01:01:22:12

That is the default position where, where for, for DCS which are promoted, which the vast majority of which are underpinned by compulsory powers across the whole project, even where voluntary agreements are signed, the norm is that, um, there is the CCA sea powers are still there in the to to cover off the scenarios that I've talked about. So just just to make sure that's understood.

01:01:22:14 - 01:01:41:08

There were two uh, matters you listed as scenarios probate being one potential insolvency being another. Um, that if either of those scenarios arose with a case, uh, if you didn't have a fallback position, potentially a project could be delayed. Yeah.

01:01:41:10 - 01:01:43:20

And that has and that has happened the this is.

01:01:44:00 - 01:01:45:15

This is could take ages.

01:01:45:19 - 01:01:47:26

Well it isn't obviously this isn't what.

01:01:51:00 - 01:02:12:05

I'm not suggesting that we do it but but um, over the years I have been involved in situations and spoken to other people, surveyors and so on who have been involved in situations and that whilst this is the exception, it can happen and it does happen from time to time and it's projects that have been burned by that, um, that have led to, to, to this approach being followed.

01:02:20:15 - 01:02:31:24

The final point to say is, well, there is a time limit in the on the cap powers. As you, as you all know. Um.

01:02:35:04 - 01:02:41:04

So so yeah, this situation, the kind of dual dual situation only exists for a period of time.

01:03:16:18 - 01:04:12:05

That does that explanation that you've variously had over the last ten or so minutes, um, give any more, or does that improve your understanding of what the applicant is potentially seeking to agree with you? Um, and that there is, um, potential for further negotiation with the applicant to try and resolve some of the matters of concern, particularly in terms of the mechanics of how an agreement would work. Uh, there in terms of your deadline file submission, there were various matters of more detail, um, that you might still have concerns about, but at least in terms of understanding how the voluntary agreement works relative to, um, the broad CCA powers that the applicant is seeking has that discussion or that, um, what we've just been hearing made things clearer to you.

01:04:13:12 - 01:04:36:24

Thank you. Chairman. Yes. And thank you very much indeed for entering into that discussion. I'm sorry that it took it took so long. I'm clear on where we are and where we aren't. My main concern is actually the extent to the CPO powers over matters that aren't relevant for the purpose of putting in the bird nesting scheme. I'm sorry that those haven't received any coverage.

01:04:37:06 - 01:04:42:17

I'm going to come to a question or two about that in a little while. Yeah.

01:04:43:22 - 01:04:44:07

Thank you.

01:04:44:17 - 01:05:00:01

But I think having that sort of mechanics type discussion was useful because it has broader application. My colleagues were indicating that I think both Mr. Foster and Mrs. Fairlie also had something to say in that regard. Perhaps turning to Mr. Foster first.

01:05:00:17 - 01:05:31:17

Haydon. Foster? Yeah. Referring to that specific point that Mr. Gould raised. Hence why I put my hand up then. Um, I have direct experience of this occurring and it affects all landowners. Hence why I'm, um, pleased to to speak on it. I have direct experience on a similar scheme, where a decision was made by the project to use their compulsory powers for economic reasons. It's fine to talk of, um, dispute resolution processes, etc..

01:05:31:19 - 01:06:05:13

It's important that everyone understands that the landowner has no direct link to the contract or instructed, so the landowner has no direct way to hold accountable the contractor instructed by the project. And we can talk all we like about remedies. In my particular case, it was use of an access, which there were very specific reasons we'd agreed it would not be used. By the time you'd entered in to the remedies that were, uh, were listed, the access had been used and the damage had been done.

01:06:05:17 - 01:06:32:01

So I have to say that whilst what we've heard is the roseate version of what's occurs in practical terms when one's dealing with contractors on the on the ground. These problems of you think you've agreed. One thing that the CPO allows something else is a challenge on all schemes. I don't have a solution, but I think it's fair to make that point that it can be a problem. Thank you.

01:06:55:07 - 01:06:59:04

I didn't want to say anything in response to what Mr. Foster has just said.

01:07:02:28 - 01:07:25:04

Julian Boswell for the applicant, I suppose. I know I just told a couple of war stories and, um, uh, the the difficulty is with this that you you that you can't there's only so far that you can get by sort of discussing what's happened on, on other sites. So I'm not sure that I can usefully, usefully respond.

01:07:29:29 - 01:07:30:23

It is fairly.

01:07:31:14 - 01:08:08:08

Thames and fairly for t fairly and sons. Um we'd echo Mr. Gold's point. I think this is our primary area of concern in that what we're being shown on our voluntary agreement for an option, we're not too far away from being at a point where we probably could agree, but that doesn't include some of these sections that they're still taking the, um, that they would still have CPO powers over. And what we can't understand is if they're happy to agree something with us voluntarily, why can't that be reflected in the CPO powers? In our particular case, it's it's removing a section of land that they're saying they don't need voluntarily.

01:08:08:11 - 01:08:21:15

It's not like we're just trying to change a what they're doing with that parcel. It's it's a physical piece of land that could just be removed, and that would give us the comfort that they can't go back on their agreement.

01:08:43:17 - 01:09:03:04

I guess the feeling is that us signing the voluntary agreement feels irrelevant. If the option to use the CPO powers becomes an option. And I think, realistically, the applicant probably knows that most landowners won't feel they have the resource to go down the legal route, and it will just be easier for them to to be big and for us to be small.

01:09:46:08 - 01:09:50:20

Does the applicant have anything to say in response to Mrs. Fells Point?

01:09:52:16 - 01:10:02:11

I presume the piece of land that you're seeking to have removed from the parcel is the screening land around Norman's Normans farm.

01:10:03:15 - 01:10:07:03

Yeah. The boundary around the field and immediately behind the yard.

01:10:37:29 - 01:10:39:28

Did the applicant want to make a response?

01:10:47:15 - 01:11:13:15

Well, let me give you for the applicant. Um, we are working with Mrs. Furley and the family partnership around the land around Norman Farm. We do not think it is fair to characterize this as being agreed that that is not because we're still doing the work. So we are actively engaged in that process and we are still doing the work, but we do not think it is fair to say that it is agreed that it's out at the moment. So I think there's a slight difference and understanding there.

01:11:49:19 - 01:12:01:19

From the applicant's perspective, is this this negotiation or discussion something that you think might be resolved by the conclusion of the examination.

01:12:03:20 - 01:12:06:08

I'm going to ask the same question in a second.

01:12:29:25 - 01:12:46:19

Uh, well, let me give you the reason for the delay, sir, is fundamentally. We we think we have the documents almost ready to send to the families in the next week or so, but obviously we would then need their responses. And if they're not happy, we won't agree. So the negotiation is ongoing, but I can't guarantee when it would be concluded.

01:13:22:16 - 01:13:34:22

It's fairly from your client's perspective. What what do you think the prospects are that the matter might be resolved by the time we get to the close of examination. 17th of March.

01:13:36:00 - 01:14:06:06

Thomson. Fairly. Fairly intense. Um, it's slightly difficult to say at this point. Um, my the preference is to sign. Sign the option. Um, and we are being incentivised to sign by deadline six. Um, but obviously at the point at which we sign our voluntary agreement and go down an option, we're precluded from participating effectively in this process. So we we do want. We do want to sign.

01:14:06:28 - 01:14:37:22

Um, my worry is that we we have not really moved our goalposts since since the beginning. You know, we drew our line as to we've obviously accepted various points, but in terms of this screening, we we've stated what we feel is reasonable and what we can agree to. And it just seems like the process is being kicked along and kicked along and kicked along and kicked along by the applicant. We felt we'd got to a point where we were making some progress, but now we're sitting here and I'm not.

01:14:37:27 - 01:14:48:08

I'm not sure whether they're saying one thing to us, but having another conversation when we're not there. So I think we just need some clarity on where we are ASAP so that we can actually make a decision.

01:15:09:09 - 01:15:41:17

I'd just like to add the fact that we're being presented with two different options by five Estuaries and North Falls in terms of this arrangement, makes this whole process so much harder because we really don't understand what we're going to be left with. And obviously, North Falls will then go through the same process and which we won't be able to comment on if we if we sign an option. And then we could still be at the end of this, with both projects having two different options that they can use their CPO powers on, and we still don't know what we're going to get.

01:16:07:08 - 01:17:07:21

Mr. Foster. I'll come to you in a minute. I want to ask the applicant. Um, in terms of the slightly unusual situation in with respect, particularly to Norman's farm, because there are the two projects side by side, and the two projects have taken a different approach. Um, can you assist a tool, um, in addressing the point that Mrs. Fellows raised that they're not quite sure. Ultimately, if they signed two agreements, what they actually end up with and if they sign an agreement with Five Trees now, that potentially precludes them, um, participating further, particularly when this examination has closed, but the other examination is ongoing where other negotiations might be taking place which change things, which are then not in accordance with whatever they may have agreed with five estuaries.

01:17:12:03 - 01:17:12:28

For the applicant.

01:17:16:08 - 01:17:27:08

I do not represent North Wales and I can't speak for them, but my understanding is from our documents is that signing a document with five histories does not stop them participating in the North Wales DCO process.

01:17:33:16 - 01:17:34:08

So I think.

01:18:08:07 - 01:18:13:12

I'll make you do that. Okay? We're going to have to come back in writing, sir. Sorry, I am not the lawyer dealing with these types of terms.

01:18:14:05 - 01:18:14:28

Mr. foster.

01:18:16:06 - 01:18:54:11

Thank you. Hayden Foster, representing Henry Fairley and son. The. The heads of terms as presented require a tripartite option agreement, not separate documents. And therefore, you are bound under both projects via the voluntary route. That's that's as things stand. That's facts, not supposition. Um, I'd also like to talk on the preclusion point, which I think was really important. And I think, um, Samson made a very good point in that, um, the preclusion here does present prevent you coming to present at this hearing.

01:18:55:17 - 01:19:28:13

You can't object in other cases where I've been involved. And I know my colleague colleagues at the left talked about war stories. This is not a war story. It's factual. We had an arrangement where you couldn't comment on the financials at a hearing, and this is not the place for that. However generous they may or may not be. But you could comment on practical matters at a hearing that affected your land holdings. And the things that we've talked about today are all practical matters which affect individual landowners land holdings.

01:19:28:25 - 01:20:03:19

And to that end, signing heads of terms before the end of this process is an exceedingly difficult thing to do, because you lose the right to comment upon what is occurring occurring here. I do think that's a very relevant point and it could be dealt with very quickly in the heads of terms that are being offered by prescribing what may and may not be commented upon in this forum. Thank you. Um, in due course, I've got 1 or 2 comments on the response to my questions, but I'm happy to do that later if that suits best.

01:20:52:17 - 01:20:53:02

That.

01:20:55:21 - 01:21:12:20

From from what Mr. Foster has just explained. Is there any further clarity on the applicant side as to, um, how the tripartite arrangement, um, does or does not affect a party's ability to comment? Um, in effect

01:21:14:14 - 01:21:38:23

in this scenario because of the running order for these two examinations. If a party signs something in relation to five estuaries, um, or signs the tripartite agreement, at this point they would have uh in effect precluded themselves from participating actively in the North Falls examination.

01:21:42:18 - 01:22:07:12

Adam Kendall on behalf of the applicant. So I think this point, um, can be clarified in the discussions between the applicants and the interested parties. Um, through the voluntary agreement process. Um, it's probably something that, um, could do with some discussion between the parties, but ultimately, um, we can't be speaking on behalf of North Falls.

01:22:09:11 - 01:22:17:28

And, um, I think I'm correct in saying that this is the first time that this has been raised, um, as a point to us.

01:22:39:11 - 01:23:13:27

I mean, This is not the right forum. Particularly as, um, those representing uh five estuaries are not necessarily instructed to act on North Falls part at a north ward who need to issue instructions anyway and to presumably enter discussions. Um, but it does sound like there does need and possibly quite urgently, discussions. Um, given that North Falls examination is due to commence next week, um, to try and get this this issue resolved.

01:23:15:01 - 01:23:16:08

Mr.. Mr.. Carter.

01:23:17:25 - 01:23:50:28

Um, sorry. Very briefly, Hayden Foster, um, for, uh, Henry Fairley and Sun Limited. I'm sorry. I just want for the record to state that this was raised with McLaren over 12 months ago. So to say that it is a point that has not been raised is, is again, inaccurate. Um, I can't say I can't say more than that. But you you would appreciate. And I know you understand, that the tripartite arrangement. We are forced to talk on a tripartite basis, and you are forced to separate it.

01:23:51:03 - 01:23:55:27

It makes it exceedingly difficult for us to advise clients.

01:24:29:20 - 01:25:00:28

She's fairly hands in fairly fatigue fairly and sans. Um, we have also raised the issue with McLaren. I've had the calls I've had with them are not necessarily in relation to my family, but with another client that I do represent along the route. I also had this same conversation with them, I believe, on Friday last week, um, about this tripartite agreement. And I was also told that it's five, uh, sorry, North Falls solicitors will be the primary person drafting the option for us to sign to begin with.

01:25:01:03 - 01:25:31:16

So both sides, you know, we are only being given one agreement and it will be North Falls solicitor who drafted that to begin with before it's then commented on by five SGS team. And I put to the I put to McLaren. What happens if we say, well fine, we'll sign one agreement with five estuaries at this stage, but we're not in a position to sign one with North Falls. And I was told that, that they couldn't understand what the benefit to us that would be, and we would end up in a worse off situation. So we have asked the question.

01:25:52:29 - 01:25:59:12

With it. There seems to be definitely a process problem with this examining authority.

01:26:01:06 - 01:26:36:24

I think all we can do is urge the parties, and that potentially means a party that's not represented in this room, ie North Falls. But it would. It would appear that there needs to be some sort of urgent discussion between the various parties to try and move the point on. Um, otherwise it's sounding like there's this examination gets towards its conclusion. There are potentially going to be a lot of landowners who might have been able to reach some form of an agreement, um, with five estuaries will not have done that.

01:26:37:22 - 01:26:45:00

Um, and we potentially will then be reporting to the Secretary of state on a lot of unresolved compulsory acquisition objections.

01:26:46:15 - 01:26:55:14

So in terms of potentially moving things forward, can the applicant give any assistance as to how things might be accelerated?

01:27:00:26 - 01:27:09:06

What? Mr. gold? Um, we will come to you shortly. So we haven't forgotten you.

01:27:16:03 - 01:27:32:02

I mean, we've been sitting for about an hour and a half. Is this something that perhaps the applicant would like during a adjournment to have a bit of a think about, and then we can return to it after, uh, resumption? Assumption.

01:28:11:14 - 01:28:21:03

Uh. Paul McCartney. Yes, sir. If we could go away during the break and have a further conversation and see if we can come back to you with a more useful answer than we currently have, which is we need to speak to North Walls.

01:28:21:27 - 01:28:34:24

Just just before we do adjourn. Mr.. Go ahead. Is there anything in respect of this matter that you wanted to raise, or are your matters of a different state kind?

01:28:34:26 - 01:28:36:06

Chairman, I just wanted to.

01:28:38:13 - 01:28:54:22

Thank the previous speaker of the speakers for affectively elaborating and dealing with the point. And thank you very much, sir, for dealing with us as well. It seems to be dreadfully unresolved at the moment, and I'm concerned about how I can enter into a voluntary agreement.

01:28:55:13 - 01:29:14:12

Thank you, Mr. Cole. And I think what we can usefully do at this point, um, is take the adjournment. Um. Do people want it? Well, it'll just be if you take just over 15, 15 minutes, that brings us back at 11:45. Or does the applicant think they might need a bit more time?

01:29:19:25 - 01:29:24:07

So if if we therefore adjourn until 11:45. Thank you.